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OF THE
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OF THE
STATE OF CALIFORNIA

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TO THE
LEGISLATURE

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TO THE
APPROPRIATE

CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 14528.

IN THE MATTER OF THE APPLICATION OF REDONDO HOME TELEPHONE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

Application No. 10696.

Decided February 2, 1925.

SECURITIES—STOCK DIVIDEND.—A public utility can not issue stock, for the purpose of paying a stock dividend, in excess of its corporate surplus.

DEBT AND RESERVE—CAPITALIZATION.—The Commission will not authorize the issue of stock against property acquired through the creation of indebtedness or through the investment of the depreciation reserve. Both the debt and the reserve are regarded as part of the capitalization of the properties. Debts may be paid, and the cash represented by the reserve replaced through the issue of stock.

D. Joseph Coyne, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing had before Examiner Fankhauser, the Railroad Commission is asked to make an order authorizing Redondo Home Telephone Company—

1. To issue and sell, at such price as the Commission may fix, 1000 shares of its 7 per cent cumulative preferred stock, of the aggregate par value of \$100,000 for the purpose of acquiring and installing additional telephone properties; and

2. To issue 600 shares of its common capital stock, of the aggregate par value of \$60,000, as a stock dividend to its present stockholders.

Redondo Home Telephone Company was organized on or about March 21, 1905, with a total authorized capital stock of \$40,000 of common stock, all of which heretofore has been issued and is outstanding. It appears that recently the authorized stock issue has been increased to \$250,000, divided into \$100,000 of common and \$150,000 of 7 per cent cumulative preferred stock. In the application as originally filed, applicant asked permission to issue \$150,000 of preferred stock and \$60,000 of common stock.

Applicant operates a manual telephone exchange in the city of Redondo Beach, furnishing exchange service throughout the cities of Redondo Beach, Hermosa Beach and Manhattan Beach and making available to subscribers toll or long distance service over the lines of the United States Long Distance Telephone and Telegraph Company and

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The Pacific Telephone and Telegraph Company. The Commission, in Decision No. 13862, dated August 2, 1924, in Application No. 9560, reviewed the rates charged by applicant and found the service rendered by applicant inadequate. Quoting from the decision:

"Applicant's plant as a whole is, and has been for some time, very congested and overloaded. New subscribers cannot be furnished service except in case of a vacancy resulting from a discontinuance of an existing service or by degrading an existing service. To relieve this condition and in order that applicant will be in a position to render a service which the subscribers and public are entitled to enjoy, it will be required to make immediate expansion and addition to its present plant. Applicant has definite plans providing for an increase in its plant, which it believes will correct the present conditions and enable it to take care of the present and future demands of service.

Applicant has already contracted for additional central office equipment and associated apparatus, costing approximately \$9,000, and which it contemplates will be installed during the latter part of this year. The installation of this board should afford the necessary relief required in central office capacity. Applicant's plans for outside plant construction, including aerial and underground cable and suburban construction, will involve the expenditure of \$65,000, and these facilities will be installed during the years 1924 and 1925 as the needs for service demand. These figures have been checked and I am of the opinion that applicant will be required to expend at least this amount to bring its plant into a condition that satisfactory service may be rendered."

The Commission's decision authorized the company to make effective certain modifications and adjustments to its rate schedule and its primary rate area, but provided that such modifications and adjustments could be made only upon completion of such additions and changes in the company's telephone plant and system as would result in adequate service being given to existing subscribers and in all reasonable demands for service being met; and further, upon proper showing that such additions and changes have been made, that adequate service is being furnished and that such relief is necessary and upon the issuance of a supplemental order by the Commission.

Accordingly, applicant has now filed the present petition to issue and sell preferred stock to finance the proposed expenditures of approximately \$74,000, referred to in the former decision of the Commission, which are thought necessary to place the properties in a position to give adequate service. The expenditures were reported in Exhibit No. 6, filed in Application No. 9560, as follows:

Switchboard (two positions) and associated apparatus, as per contract with Stromberg-Carlson Telephone Manufacturing Co., plus cost of installation	\$9,118 15
Underground conduit addition, 10 concrete manholes with connecting conduits	2,500 00
Cost of underground cable on rack and in ducts	7,367 01
Cost of buried cable, by sections:	
Base line south, on Broadway-Redondo	\$5,319 89
Base line north, on Camino Real boulevard, Redondo and Hermosa, and First, Hill, Second, Summit and adjacent streets to Neptune avenue, Hermosa, to serve Manhattan	18,595 47
Lateral on Opal street	412 92
Lateral on Ruby street	470 50
Lateral on Sapphire street	98 87
Lateral on Marguerite street	589 24

Lateral on Camino Real, Redondo-----	\$799 46
Lateral on Camino Real, 1st to 14th-----	4,934 97
Lateral beyond 14th street, Camino Real, Hermosa-----	222 92
Lateral, Camino Real to 10th and Summit-----	1,387 43
Lateral, 10th and Summit, north in Hermosa-----	1,403 18
Lateral from Manhole No. 10, Redondo-----	1,794 87
Various sub-laterals -----	369 84
Total for buried cable-----	\$36,489 56
Terminals on above cables-----	3,011 45
Poles used as distributing poles in blocks-----	2,620 44
Anchors and guys-----	327 00
Suburban construction:	
Gillette Manor, Walteria, etc.:	
Buried cable -----	\$3,256 44
Terminals -----	212 41
Poles -----	1,785 24
Anchors and guys -----	244 25
225 crossarms, 16 pins-----	805 50
Backbores -----	15 00
Wire, 100 miles No. 12 iron wire, with insulators, etc.--	3,236 00
Total suburban construction -----	\$9,554 84
Contingencies, 5 per cent -----	3,543 42
Total -----	\$74,531 87

T. A. Gould, applicant's president, believes that it will require more than \$74,531.87 to acquire and install the foregoing property. For this reason the company asks authority to issue and sell \$100,000 of preferred stock. It asks permission to sell such stock at not less than 95 per cent of par value and to use, if necessary, 5 per cent of the par value of stock sold to pay commissions and selling expenses. As no definite showing was made of the necessity for making additional expenditures, the order herein, while authorizing the issue and sale of \$100,000 of preferred stock at the price requested, will provide that net proceeds in excess of \$74,531.87 may be expended only as hereafter authorized in supplemental orders.

As of November 30, 1924, applicant reports its assets and liabilities as follows:

<i>Assets.</i>	
Fixed capital -----	\$136,665 85
Cash -----	1,984 85
Bills receivable -----	158 22
Accounts receivable -----	7,304 23
Material and supplies -----	2,787 06
Prepayments -----	251 86
Unextinguished discount (stock) -----	28,793 81
Total assets -----	\$177,945 88
<i>Liabilities.</i>	
Capital stock -----	\$40,000 00
Funded debt -----	70,000 00
Accounts payable -----	12,392 27
Accruals -----	717 94
Reserve for depreciation -----	39,353 95
Surplus unappropriated -----	15,481 72
Total liabilities -----	\$177,945 88

In support of the request to issue \$60,000 of common stock as a stock dividend, the company reports that since its incorporation in 1905 no dividends have ever been paid to the holders of the \$40,000 of stock outstanding, and that, moreover, since such stock was issued, over \$100,000 in property has been added to its assets. While it may be true that the assets of the company have increased by more than \$100,000, applicant's balance sheet shows that more than 80 per cent of the added assets were acquired through issue of bonds or other indebtedness and the investment of moneys represented by the reserve for accrued depreciation. This Commission considers liabilities as part of the capitalization of properties.

An issue of stock for the purpose of paying a dividend is limited by the amount of money not obtained from the issue of stock, bonds or other evidences of indebtedness expended for the purposes mentioned in section 52 of the Public Utilities Act, and by the amount of unappropriated corporate surplus. Applicant's representatives admitted that the amount of dividend declared could not exceed the reported surplus (\$15,481.72) on November 30, 1924. It was urged by them, however, that the commission should permit the sale of the stock at a discount so that the par value of common stock issued would exceed the amount of the surplus. In our opinion, applicant's balance sheet does not justify such a procedure. The order herein will authorize applicant to issue \$15,400 of common stock at par to reimburse its treasury because of earnings expended for the acquisition of properties. After such reimbursement the \$15,400 may be distributed as a stock dividend.

ORDER.

Redondo Home Telephone Company having applied to the Railroad Commission for permission to issue \$60,000 of common stock and \$100,000 of preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of \$15,400 of common stock and \$100,000 of preferred stock, is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Redondo Home Telephone Company be and it is hereby authorized to issue from and after the date hereof and on or before December 31, 1925, \$15,400 of its common stock and \$100,000 of its 7 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. The \$15,400 of common stock herein authorized shall be issued at par to reimburse the company's treasury on account of income invested in properties prior to November 30, 1924. After such reimbursement,

such stock may be distributed as permitted and directed by law to the holders of outstanding common stock as a stock dividend.

2. The \$100,000 of preferred stock herein authorized shall be sold at not less than 95 per cent of par value. Of the proceeds the company may use, if necessary, an amount not exceeding 5 per cent of the par value of stock sold to pay commissions and other expenses incident to the sale. Of the remaining proceeds the company may use not exceeding \$74,531.87 to finance the cost of the extensions, additions and betterments to which reference is made in the opinion which precedes this order. The remaining proceeds and such part of the 5 per cent not used to pay commissions and other expenses incident to the sale of the stock may be expended only as hereafter authorized by the Commission.

3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this second day of February, 1925.

DECISION NO. 14529.

IN THE MATTER OF THE RATES OF THE AMERICAN RAILWAY EXPRESS COMPANY.

Application No. 5912.

Decided February 5, 1925.

RATES—EXPRESS—REVISION AUTHORIZED.—Increases and decreases having been ordered by Interstate Commerce Commission, effective March 1, 1925, it is necessary that the American Railway Express Company have an order from the Railroad Commission to establish within California the rates established by the Interstate Commerce Commission.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

WHEREAS, The Interstate Commerce Commission on November 10, 1923, by decision in Docket No. 13930, Express Rates 1922 (83, I. C. C. 606), entered an order requiring carriers, parties to the proceedings, to establish certain interstate class and commodity express rates. This original order was supplemented by decision of May 17, 1924, (89, I. C. C. 297) requiring carriers to place revised class rates in effect on or before January 1, 1925, and further supplemented, making the effective date March 1, 1925.

WHEREAS, The Railroad Commission of the State of California participated actively throughout the proceedings conducted by the Inter-

state Commerce Commission; a representative of the rate department sat as one of the examiners at all the hearings throughout the United States, while its attorney participated at the hearings in California and appeared at the proceedings conducted at Washington, D. C. In addition to this activity, testimony and a great many exhibits were introduced at the hearings in San Francisco, beginning March 3, 1923. Prior to the institution of the Interstate Commerce Commission's Docket No. 13930, the California Commission gave consideration to the application of the American Railway Express Company's Application No. 5912, and by Decision No. 8121, September 17, 1920 (18, C. R. C. 879), authorized the express company to increase its class rates by $12\frac{1}{2}$ per cent. The express company presented a second request seeking a further increase of $13\frac{1}{2}$ per cent, based upon a decision of the Interstate Commerce Commission rendered September 21, 1920, in Docket No. 11326, Express Rates 1920 (58, I. C. C. 707), by our Decision No. 8488, December 23, 1920 (19, C. R. C. 194); the increases here sought were denied upon the grounds that the express company had failed to prove that a further increase in California intrastate rates was just and reasonable. The opinion rendered September 17, 1920, *supra*, read, in part, as follows:

If request is made following the decision of the Interstate Commerce Commission in the 15 per cent proceeding for additional increases in rates or changes in classifications, resulting in increases in California rates, the applicant will be required to make an affirmative showing that the proposed increases, in so far as they affect California, are reasonable.

Following our decision December 23, 1920, the express company entered a proceeding before the Interstate Commerce Commission, which proceeding was given Docket No. 12093, alleging that the order of December 23, 1920, of the Railroad Commission of the State of California denying a further increase of $13\frac{1}{2}$ per cent in the class rates would result in undue and unreasonable advantage, preference and prejudice as between persons and localities on intrastate traffic on the one hand, and interstate and foreign commerce on the other. No decision has yet been rendered by the Interstate Commerce Commission in Docket No. 12093, but this proceeding is not now controlling by reason of the fact that the issues are included in interstate Docket No. 13930.

The final orders of the Interstate Commerce Commission in Docket No. 13930 practically sustain this Commission in its conclusions December 23, 1920, *supra*.

The rates ordered into effect March 1, 1925, by the Interstate Commerce Commission are, with very few exceptions, those now being assessed under our order of December 23, 1920.

^ We are of the opinion that the rates within the State of California should harmonize with the interstate rates, thereby eliminating discrim-

ination and avoiding the confusion of maintaining two sets of tariffs. Further, we are of the opinion that the American Railway Express Company has had every opportunity to present its position in conformity with the provisions of the Public Utilities Act.

The Railroad Commission of the State of California hereby adopts and makes its own the reports, findings and opinions of the Interstate Commerce Commission, as set forth in Docket No. 13930, Express Rates 1922.

It is ordered, that the American Railway Express Company and the respondent carriers of express traffic, according as they participate in the transportation, be and they are hereby notified and required to cease and desist on or before March 1, 1925, and thereafter to abstain from publishing, demanding or collecting for the transportation of express traffic within the State of California rates or charges which shall exceed those prescribed in the orders issued by the Interstate Commerce Commission in Docket No. 13930.

It is further ordered, that the said American Railway Express Company and the respondent carriers, according as they participate in the transportation, be and they are hereby notified and required to establish on or before March 1, 1925, upon notice to this Commission and to the general public by not less than ten (10) days' filing and posting in the manner prescribed in the Public Utilities Act, and thereafter to maintain and apply to intrastate transportation of express traffic within and between points in the State of California rates and charges which shall not exceed those applicable to the same movement on interstate traffic within the same territory designated in the Interstate Commerce Commission's orders in Docket No. 13930, as applying to the State of California.

Dated at San Francisco, California, this fifth day of February, 1925.

DECISION No. 14531.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON SERVICE AND REMOVE ITS TRACKS ON CERTAIN STREETS IN THE CITY OF RIVERSIDE, CALIFORNIA.

Application No. 10366.

Decided February 5, 1925.

ABANDONMENT—STREET RAILWAY UTILITY.—Pacific Electric Railway Company is authorized to abandon service and remove tracks of its Seventh street and Fairmont Park-Victoria avenue lines, but its application to abandon its Brockton avenue line, all in the city of Riverside, is denied.

C. W. Cornell, for Applicant.

S. C. Evans, Mayor, and G. A. French, City Attorney, for City of Riverside, Protestant.

Henry W. Coil and J. L. Richardson, for residents of Brockton Avenue, Protestants.

BY THE COMMISSION.

OPINION.

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the abandonment of service and removal of tracks on certain city street car lines heretofore operated in the city of Riverside.

Public hearings on this application were conducted by Examiner Handford at Riverside, the matter was duly submitted following the filing of briefs and is now ready for decision.

The service herein proposed to be suspended and the trackage for which authority to abandon and remove is hereby sought is described as follows:

1. A single track commencing at a point on West Seventh street near the northerly prolongation of the west line of Rose way; thence easterly along West Seventh street to beginning of double track at a point approximately 150 feet westerly from the westerly line of Market street, and thereafter a double track line beginning at above mentioned point in West Seventh street, thence easterly along West Seventh street and East Seventh street to the end of said double track at a point approximately 160 feet westerly from the center line of Vine street; thence easterly along a single track on said East Seventh street a distance of 90 feet, more or less, to the end of said track.

2. A single track line commencing at the switch point in the single track line on Main street, distant northerly about 75 feet from the center line of Fourteenth street; thence southeasterly to Fourteenth street and along Fourteenth street to Lime street; thence southwesterly along Lime street and across Prospect avenue to Olivewood avenue; thence southerly along Olivewood avenue to Cridge street; thence southeasterly along Cridge street to Victoria avenue; thence southwesterly southerly and southeasterly along Victoria avenue to end of track a short distance northerly from Arroyo drive.

3. A single track line commencing at the switch point in the present constructed single track line on Main street opposite the northwesterly corner of Fourteenth and Main streets; thence northwesterly along Fourteenth street to Brockton avenue; thence southwesterly along Brockton avenue to end of track at Jurupa avenue; including passing track near Bandini street.

4. A single track line commencing at the switch point in the most westerly track near the north line of First street a short distance west of the west line of Main street; thence northwesterly across First street and private property to Houghton avenue; thence westerly along Houghton avenue to Locust street; thence northerly along Locust street to the end of track approximately 375 feet northerly from the north line of Houghton avenue.

All the foregoing as more fully shown in purple color on a blue print map marked "C. E. H. 8034" and filed herein as a portion of the application.

Applicant alleges that there is not sufficient patronage offering on the foregoing street car lines to justify their continued operation; that operation for some time has been conducted at a loss; that to continue operation will necessitate large expenditures for maintenance and repairs and for paving and reconstruction necessary to comply with the requirements of the city of Riverside in connection with street

work and improvements; that public convenience and necessity does not require the further maintenance and operation of said lines in that there is no prospect of sufficient patronage to justify operation; and that the continued use of the tracks proposed to be abandoned is no longer necessary for the business of the applicant.

The several lines, herein proposed to be abandoned, are known and will hereinafter be referred to as "Seventh street line," "Fairmont Park-Victoria avenue line" and "Brockton avenue line."

Statements showing revenues and operating expenses for the period February 1, 1923, to January 31, 1924, for each of the three lines were filed as exhibits at one of the hearings. The following data has been abstracted from these exhibits:

Seventh Street Line.

Revenue from transportation	\$1,981 32
Railway operating expenses	7,137 36
Net loss from operation	\$5,156 04
Depreciation	\$271 56
Taxes	104 02
Franchise percentage of gross receipts	144 43
Deductions from income	520 01
Net loss	\$5,676 05

Fairmont Park-Victoria Avenue Line.

Revenue from transportation	\$10,386 09
Railway operating expense	15,852 01
Net loss from operation	\$5,464 92
Depreciation	\$700 06
Taxes	545 27
Franchise percentage of gross receipts	673 46
Deductions from income	1,918 79
Net loss	\$7,384 71

Brockton Avenue Line.

Revenue from transportation	\$8,603 08
Railway operating expense	9,167 91
Net loss from operation	\$564 83
Depreciation	\$393 01
Taxes	451 66
Franchise percentage of gross receipts	304 77
Deductions from income	1,149 44
Net loss	\$1,714 27

Similar statements were filed for the period February 1 to June 30, 1924, inclusive, which show the following data:

Seventh Street Line.

Revenue from transportation	\$827 43
Railway operating expenses	2,494 36
Net loss from operation	\$1,666 93
Depreciation	\$112 72
Taxes	43 44
Franchise percentage of gross receipts	63 34
Deductions from income	219 50
Net loss	\$1,886 43

Fairmont Park-Victoria Avenue Line.

Revenue from transportation	\$4,044 59
Railway operating expenses	5,242 36
Net loss from operation	\$1,197 77
Depreciation	\$280 98
Taxes	212 34
Franchise percentage of gross receipts	301 48
Deductions from income	803 80
Net loss	\$2,001 57

Brockton Avenue Line.

Revenue from transportation	\$3,847 42
Railway operating expenses	3,021 91
Net gain from operation	\$825 51
Depreciation	\$162 89
Taxes	201 98
Franchise percentage of gross receipts	137 46
Deductions from income	502 33
Net gain	\$323 18

The foregoing abstracts from exhibits filed cover all operating expenses, depreciation and taxes but make no allowance for interest return on the value of the property.

Exhibits filed herein and showing the actual net expenses (including taxes, franchise assessments and depreciation) which exclude general and supervisory costs show the following results for the periods mentioned.

Seventh Street Line.

	Year Ending Jan. 31, 1924	5 Mos. Ending June 30, 1924
Revenue from transportation	\$1,981 32	\$827 43
Direct operating charges	6,265 81	2,188 69
Net operating loss	\$4,284 49	\$1,361 26
Depreciation, taxes and franchise tax	515 67	218 89
Net loss	\$4,800 16	\$1,580 15

Fairmont Park-Victoria Avenue Line.

	Year Ending Jan. 31, 1924	5 Mos. Ending June 30, 1924
Revenue from transportation-----	\$10,386 09	\$4,044 59
Direct operating charges -----	13,528 84	4,429 78
Net loss -----	\$3,142 75	\$385 19
Depreciation, taxes and franchise taxes-----	1,907 50	802 82
Net loss -----	\$5,050 34	\$1,188 01

Brockton Avenue Line.

	Year Ending Jan. 31, 1924	5 Mos. Ending June 30, 1924
Revenue from transportation -----	\$8,603 08	\$3,847 42
Direct operating expenses -----	7,823 46	2,543 90
Net gain -----	\$779 62	\$1,303 52
Depreciation, taxes and franchise taxes-----	1,143 15	501 68
Net loss -----	\$363 53	
Net gain -----		\$801.84

From the above statistics it is evident that the operation of the Seventh street and the Fairmont Park-Victoria avenue lines have been conducted at a substantial loss during both periods shown and that such loss also is applicable to the conditions shown when the direct charges only are considered. The showing as regards the Brockton avenue line, while not reflecting any material return for interest on the investment shows the line to be returning its operating costs and a slight increase in the average monthly revenue during the later period.

Mr. H. E. De Nyse, a witness for applicant, testified that paving work contemplated by the city of Riverside would require an estimated expenditure on the Fairmont Park-Victoria avenue line of approximately \$8,000 and that it was anticipated a considerable sum would in the near future be required to defray the applicant's portion of the expense of rehabilitation of the Victoria avenue bridge. This witness also presented figures as to the expense which would be incurred if Brockton avenue were to be paved. It does not appear, however, that there is any present agitation on the part of the residents on Brockton avenue or by the city of Riverside relative to the paving of this avenue and until some definite action is taken thereon the anticipated expenditure does not become a factor to be considered in this proceeding.

The granting of the application is protested by the city of Riverside and by property owners and patrons of the various lines herein proposed to be abandoned. Protests were received from 334 signers representing 1068 persons living in the district served by the Brockton avenue line and from 247 persons served by the Fairmont Park-Victoria avenue line. Evidence was also received from representative protestants as to the inconvenience that would result from the proposed discontinuance of service and abandonment of the respective lines and

as to the effect such abandonment would have on the development of new residential tracts which had been established.

We have given careful consideration to all the evidence and exhibits as presented in this proceeding. We are of the opinion and hereby find as a fact that sufficient justification has not been made to support the applicant's prayer for the abandonment of service and removal of tracks on the so-called Brockton avenue line. Exhibits as presented herein and as briefly analyzed above show this line to be meeting its operating expenses and making a slight return on the investment. Further, the traffic, according to exhibits filed herein, shows a slight average monthly increase and while the claim was made by applicant that this line has not been maintained at a proper standard as regards track and equipment, there appears no substantial complaint as regards its condition. Further the anticipated expense by reason of paving appears to be one for future consideration there being nothing before the Commission indicating that proceedings initiating a paving program on Brockton avenue are contemplated by the abutting property owners on such avenue or by the city of Riverside. The portion of the application requesting authority for the suspension of operation and removal of tracks on Brockton avenue, Riverside, will therefore be denied.

The situation presented in the Seventh street and Fairmont Park-Victoria avenue lines shows that both of these lines are being operated at a return in revenue which is considerably less than the direct operating costs, and there is no evidence in this proceeding which indicates that there is any additional traffic which might be developed in volume sufficient to justify their continued maintenance and operation and to return any interest on the value of the property. It also appears that an expense of approximately \$8,000 must be made immediately on the Fairmont Park-Victoria avenue line in connection with the street improvements now in progress. We are of the opinion and hereby find as facts from the record herein that the public convenience and necessity do not require the further continued maintenance and operation of the street car lines of the applicant known as the "Seventh street line" and the "Fairmont Park-Victoria avenue line" in the city of Riverside; that the volume of business transacted on each of said lines does not return revenue sufficient to meet the bare operating expenses, depreciation and taxes; and that there is no prospect of sufficient additional business being handled to meet the costs of operation, depreciation, taxes and a reasonable return on the investment in property used and useful in the operation of said lines.

ORDER.

Public hearings having been held in the above entitled proceeding, the matter having been duly submitted following the filing of briefs, the Commission being now fully advised and basing its order on the findings of fact which are set forth in the opinion which precedes this order.

It is hereby ordered, that applicant, Pacific Electric Railway Company, a corporation, be and the same hereby is authorized to discontinue its street car service and to abandon and remove its tracks in the city of Riverside on what are commonly known as the "Seventh street line" and the "Fairmont Park-Victoria avenue line" and operating over the following described routes:

1. A single track commencing at a point on West Seventh street near the northerly prolongation of the west line of Rose way; thence easterly along West Seventh street to beginning of double track at a point approximately 150 feet westerly from the westerly line of Market street, and thereafter a double track line beginning at above mentioned point in West Seventh street; thence easterly along West Seventh street and East Seventh street to the end of said double track at a point approximately 160 feet westerly from the center line of Vine street; thence easterly along a single track on said East Seventh street a distance of 90 feet, more or less, to the end of said track.

2. A single track line commencing at the switch point in the single track line on Main street, distant northerly about 75 feet from the center line of Fourteenth street; thence southeasterly to Fourteenth street and along Fourteenth street to Lime street; thence southwesterly along Lime street and across Prospect avenue to Olivewood avenue; thence southerly along Olivewood avenue to Cridge street; thence southeasterly along Cridge street to Victoria avenue; thence southwesterly, southerly and southeasterly along Victoria avenue to end of track at a point a short distance northerly from Arroyo drive.

3. A single track line commencing at the switch point in the most westerly track near the north line of First street a short distance west of the west line of Main street; thence northwesterly across First street and private property to Houghton avenue; thence westerly along Houghton avenue to Locust street; thence northerly along Locust street to the end of track approximately 375 feet northerly from the north line of Houghton avenue.

It is hereby further ordered, that the suspension of operation and abandonment and removal of tracks as hereinabove authorized shall not be made until at least ten (10) days notice shall have been given the traveling public by posting notices in all cars operated on the lines herein authorized to be abandoned; also by posting notice in the station of the applicant at Riverside; and filing similar notice with this Commission together with cancellation of tariffs applicable to said lines, said cancellation to be made in accordance with the rules and regulations of this Commission.

It is hereby further ordered, that the portion of the application herein requesting authority to suspend service, abandon and remove trackage

and appurtenances thereto on the so-called "Brockton avenue line" be and the same hereby is denied.

Dated at San Francisco, California, this fifth day of February, 1925.

DECISION No. 14533.

EAST-WEST REFINING COMPANY, A CORPORATION; HARBOR REFINING COMPANY, A CORPORATION; HERCULES GASOLINE COMPANY, A CORPORATION; J. W. JAMESON CORPORATION, A CORPORATION; SIERRA REFINING COMPANY, A CORPORATION; WILSHIRE OIL COMPANY, A CORPORATION,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 2023.

Decided February 5, 1925.

RATES—STEAM RAILROAD—CRUDE AND FUEL OIL.—REPARATION AWARDED.—The Atchison, Topeka and Santa Fe Railway is ordered to refund, with interest, to East-West Refining Company, Harbor Refining Company, Hercules Gasoline Company, J. W. Jameson Corporation, Sierra Refining Company and Wilshire Refining Company all charges collected in excess of 3 cents per 100 pounds, rate found reasonable and nondiscriminatory for the transportation of petroleum crude or fuel oil in tank cars, moving from Santa Fe Springs to Los Angeles within two years prior to July 16, 1924; also to refund, with interest, to Roseberg Oil Corporation all charges in excess of 3 cents per 100 pounds on same commodity moving from Santa Fe Springs to Los Angeles within two years prior to August 7, 1924.

H. W. Glensor, B. H. Carmichael and F. W. Turcotte, for Complainants and Interveners Roseberg Oil Corporation, A. F. Gilmore Company, Gilmore Petroleum Company and Gilmore Oil Company.

Gwynn H. Baker, for Interveners Los Angeles Snowolene Refining Company, Associated Oil Company, Vernon Oil Refining Company and General Petroleum Corporation.

E. W. Camp and B. Levy, for Defendant.

B. W. Killick, for California Petroleum Exchange and Independent Marketers Association.

BY THE COMMISSION.

OPINION.

Complainants are corporations engaged in the oil business, with their places of business at Los Angeles.

It is alleged by complaint, filed July 16, 1924, that the rate of 5 cents per 100 pounds assessed and collected by the defendant prior to February 15, 1923, and 4 cents per 100 pounds during period February 15, 1923, to April 26, 1923, on various tank car shipments of petroleum crude oil and fuel oil moving within two years prior to July 16, 1924, from Santa Fe Springs to Los Angeles were unjust, unreasonable, excessive, discriminatory and in violation of sections 13 and 19 of the Public Utilities Act.

Reparation is sought to the basis of the subsequently established 3-cent rate. Rates will be stated in cents per 100 pounds, and rates stated as applying on crude oil also apply on fuel oil.

A public hearing was held before Examiner Geary and the case is now ready for our decision and order.

At the hearing held September 11, 1924, the Angeles Snowolene Refining Company, Associated Oil Company, Vernon Oil Refining Company and General Petroleum Corporation were permitted to appear as interveners. In the petition for leave of intervention, filed August 7, 1924, by the Roseberg Oil Corporation, A. F. Gilmore Company, Gilmore Petroleum Company and Gilmore Oil Company, the question of the rates on gas oil from Santa Fe Springs to Los Angeles was raised, which was not fully covered by the original complaint. It appears defendant was informally advised by complainants that the gas oil rates would be brought into issue at the hearing. The Commission, while not adhering to strict rules of pleading, is of the opinion that the issues raised in the original complaint can not either informally or by petition for leave to intervene be enlarged to include matters which were not specifically covered in the complaint.

The Gilmore Oil Company, it appears, was only interested in the rates on gas oil and did not ship any crude or fuel oil from Santa Fe Springs to Los Angeles during period here involved, nor does it appear A. F. Gilmore Company, or Gilmore Petroleum Company made any such shipments. There will, therefore, be no findings as to those interveners to cover gas oil or crude oil shipments.

The Angeles Snowolene Refining Company, Associated Oil Company, Vernon Oil Refining Company and General Petroleum Corporation filed formal complaint September 6, 1924, Case No. 2038, against The Atchison, Topeka and Santa Fe Railway Company, involving crude and fuel oil rates from Santa Fe Springs to Los Angeles. The Commission's findings as to shipments made by those interveners will be made in decision and order in Case No. 2038.

Complainants operate refineries at points within switching limits of Los Angeles and secure their supply of crude oil from Santa Fe Springs and other producing points in Southern California. The crude oil is bought f. o. b. the producing wells by some of the complainants, while others produce some crude oil and buy the balance f. o. b. the wells. The price paid for the crude oil at the wells is based upon the Standard Oil Company's bulletin.

The refineries' finished products consist principally of gasoline, absorption oil, engine distillate, kerosene, stove oil and fuel oil. The gasoline is marketed principally in the immediate vicinity of Los Angeles. The price of gasoline is fixed by competition with other

refineries located in Los Angeles County. About 60 per cent of the residuum from the refining process is shipped out in the form of fuel oil, 90 per cent of which moves via rail carriers.

Petroleum crude oil was first produced at Santa Fe Springs in the early part of 1922. Below is a statement abstracted from exhibits submitted, setting forth chronological history of rates from Santa Fe Springs to Los Angeles since February 28, 1922, as compared with rates in effect from competing points, together with distances between such points:

From	El Segundo		Long Beach		Whittier		Los Nietos		Santa Fe Springs
To Los Angeles	A. T. and S. F.	P. E.	L. A. and S. L.	S. P.	L. A. and S. L.	S. P.	A. T. and S. F.	S. P.	A. T. and S. F.
Miles.....	17	19	19	23	12	21	12	19	13

Rates in Cents per 100 Pounds.

Feb. 28, 1922.....	3	3	3	3	3	5	5	5	5
May 30, 1922.....	3	3	3	3	3	3	3	3	3
Feb. 15, 1923.....	3	3	3	3	3	3	3	3	4
Apr. 26, 1923.....	3	3	3	3	3	3	3	3	3

¹Established March 16, 1922.

²Established June 4, 1922.

³Rate from Placentia, a distance of 27 miles, held as maximum from Santa Fe Springs.

It will be noted since the early part of 1922 until April 26, 1923, complainants' competitors, from points on the Santa Fe as well as from points on competing lines, have enjoyed to Los Angeles a rate substantially lower than in effect from Santa Fe Springs.

The rates on crude oil from southern California producing points to Los Angeles are claimed by defendant to be depressed because of pipe line competition, either actual or potential. The rate from El Segundo to Los Angeles on asphalt, which is generally on a higher level than on crude oil, is 2½ cents. Asphalt does not move via pipe line, but generally moves in tank cars, which are required to be equipped with steam coils. The asphalt rate is claimed by defendant to be depressed because of truck competition, but it was unable to state the volume of the truck rates which is claimed has the depressing effects.

Santa Fe Springs is thirteen miles from Los Angeles, and Los Nietos twelve miles. The haul from those points is practically water level and involves no difficult operating conditions and compares favorably with haul from El Segundo to Los Angeles.

Los Nietos and Santa Fe Springs are in the same general producing territory and are competitive points. The Los Nietos to Los Angeles rate was reduced May 30, 1922, to 3 cents per 100 pounds, or to the same level as in effect from other producing points, while the rate from Santa Fe Springs remained 5 cents. The 5-cent rate from Santa Fe

Springs was the Placentia rate for a distance of twenty-seven miles, held as maximum from Santa Fe Springs.

Defendant cited instances in San Joaquin Valley and northern California where the crude oil rates were the same or higher for comparable distances than were in effect from Santa Fe Springs to Los Angeles, but such rates are not indicative of the level of the crude oil rates in southern California; further, the Commission in *Richfield Oil Company vs. Sunset Railway Company*, 23 C. R. C. 772, decided August 7, 1923, prescribed as just and reasonable a rate of 5 cents per 100 pounds on crude oil from points on the Sunset Railway to Bakersfield for an average haul of forty-four miles. Defendant also submitted in evidence exhibits purporting to set forth mileage rates on crude oil between points in Kansas, also between points in Texas, but such rates are not convincing as to what the level of the oil rates from Santa Fe Springs to Los Angeles should be.

Defendant directs attention to the empty-car haul involved between Santa Fe Springs and Los Angeles, but practically the same amount of empty-car haul would be involved from other southern California producing points, where the rates were lower than those in effect from Santa Fe Springs to Los Angeles.

A 3-cent rate from Santa Fe Springs to Los Angeles would yield a per ton mile revenue of \$0.04615 and, based upon an average weight of complainants' shipments of 76.489 pounds, would yield \$1.765 per car mile and \$22.95 per car.

After consideration of all the facts of record, we find the rates assessed and collected by defendant on shipments of petroleum crude and fuel oil in tank cars, minimum weight Shell gallonage capacity of car, from Santa Fe Springs to Los Angeles, involved in this proceeding, moving within two years prior to July 16, 1924, were excessive, unreasonable and discriminatory to the extent they exceeded 3 cents per 100 pounds; that the shipments were made as described and complainants and intervener paid and bore the charges thereon upon the basis herein-after found unreasonable; that they have been damaged to the amount of the difference between charges paid and those that would have accrued on the basis herein found reasonable, and they are entitled to reparation with interest. Complainants should submit statements of shipments to the defendant for check. Should it not be possible to reach an agreement, the matter may be referred to this Commission for further consideration and the entry of a supplemental order, should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation of the

matters and things involved having been had, and basing this order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that The Atchison Topeka and Santa Fe Railway Company refund with interest to the East-West Refining Company, Harbor Refining Company, Hercules Gasoline Company, J. W. Jameson Corporation, Sierra Refining Company and Wilshire Oil Company all charges that may have been collected in excess of 3 cents per 100 pounds, rate found to be reasonable and nondiscriminatory, for the transportation of petroleum crude or fuel oil in tank cars, minimum weight Shell gallonage capacity of car, moving from Santa Fe Springs to Los Angeles within two years prior to July 16, 1924.

It is further ordered, that The Atchison, Topeka and Santa Fe Railway Company refund with interest to the Roseberg Oil Corporation all charges that may have been collected in excess of 3 cents per 100 pounds, rate found to be reasonable and nondiscriminatory for the transportation of petroleum crude or fuel oil in tank cars, minimum weight Shell gallonage capacity of car, moving from Santa Fe Springs to Los Angeles within two years prior to August 7, 1924.

Dated at San Francisco, California, this fifth day of February, 1925.

DECISION No. 14534.

SACRAMENTO NAVIGATION COMPANY, A CORPORATION.

vs.

N. FAY & SON, A COPARTNERSHIP, N. FAY AND JOHN DOE FAY.

Case No. 2057.

Decided February 5, 1925.

Sanborn & Rochl and DeLaney C. Smith, by H. H. Sanborn, for Complainant. Jones & Dall, by C. G. Dall, for Defendants.

BY THE COMMISSION.

OPINION.

The complainant, Sacramento Navigation Company, is a corporation organized under the laws of the State of California, operating steamers for the transportation of freight only on the Sacramento River between San Francisco and Sacramento, also on the upper Sacramento River, above Sacramento, to Chico Landing.

In this proceeding it is alleged that certain freight rates published by the defendant, N. Fay & Son, a copartnership, are unjust, unreasonable and insufficient, and will not yield the required revenue for the maintenance and operation of the vessels necessary to reasonably and adequately meet the public demand for services in the territory involved.

Complainant further alleges that defendant was not operating vessels

between Sacramento and Sycamore and points north thereof on August 16, 1923, when chapter 388 of the laws of 1923 became effective, and that the defendant has not since secured from this Commission a certificate of public convenience and necessity declaring that the services by the defendant were required between any of the points on the Sacramento River north of Sacramento, or any other points on the inland waters of this state.

It is further alleged that operations by this defendant on the Sacramento River, at the rates named in Supplement No. 4 to defendant's Local Freight Tariff No. 13, C. R. C. No. 13, would result in great loss and hardship to complainant and would prevent complainant from furnishing the kind of service necessary to meet public requirements.

The complainant prays that this Commission exercise the authority conferred upon it by section 50, subsection (d) of the Public Utilities Act and make its order directing defendant to cease and desist from the operation of vessels between points on the Sacramento River north of Sacramento on the one hand, to Sacramento, Stockton, Port Costa, Vallejo, San Francisco and Petaluma on the other. Also that the Commission determine the kind and character of facilities and the extent of the operation thereof necessary to adequately serve the public, and to prescribe uniform rates, tolls, charges, classifications, rules, regulations and practices to be charged, collected and observed by all common carriers operating vessels between the points involved in this proceeding.

In answer to the complaint, defendant denies that the rates published by it are unjust, unreasonable and insufficient; denies that on August 16, 1923, it was not actually operating vessels between the points mentioned in the complaint, and alleges that the rates assessed by it are reasonable and that it is furnishing services to the public to the extent of the facilities offered.

The particular rates complained of are those published in Supplement No. 4 to N. Fay & Son Local Freight Tariff No. 13, C. R. C. No. 13, issued September 24, 1924, effective October 24, 1924, and carried in Item No. 13A of page 5, covering grain in sacks, minimum 20 tons, as follows:

Between	and	Rate
Points on the Sacramento River	Sacramento	per
between Sacramento and Sycamore	Port Costa	ton
	Vallejo	\$2 25
	Stockton	2 50
	San Francisco	2 50
	Petaluma	3 00

From the files of this Commission it would appear that the defendant, N. Fay & Son, first filed tariff establishing rates at points north of Sacramento April 23, 1918, as per their Local Freight Tariff No. 5, C. R. C. No. 5. At that time the rate between Colusa and San Francisco

was made \$2.25 per ton and between Colusa and Port Costa \$2 per ton. These rates were blanketed at all points north of Sacramento. It will not be necessary to give in detail all the rate changes published during the past six years. The following tabulation, however, is illustrative of the grain rate situation at the points named, as it recently existed and as it is today:

		Tariffs				
		N. Fav. & Son Chico 12 8/27/20	Sac. Nav. Co. Chico 13 11/10/20	Sac. Nav. Co. Chico 13 6/1/22	N. Fav. & Son Chico 13 9/21/22	N. Fav. & Son Chico 13 10/21/24
Between Colusa	and San Francisco	\$3 87 1/2	\$3 90	\$3 60	\$3 30	\$3 30
	Port Costa	3 50	3 50	3 20	3 00	3 00
Points on Sacramento River between Sacramento and Sycamore	San Francisco	-----	-----	3 60	3 30	3 00
	Port Costa	-----	-----	3 20	3 00	2 50
Points on Sacramento River between Sacramento and Knights Landing	San Francisco	3 87 1/2	3 90	3 30	3 00	3 00
	Port Costa	3 50	3 50	3 00	2 50	2 50

It will be noted from the above that in 1920 the rates of complainant and defendants were on a parity; that in 1922 the defendants' rate between Colusa and San Francisco was 30 cents and at Port Costa 20 cents per ton lower than the complainant's; from Knights Landing to San Francisco and Port Costa the rates were 30 and 50 cents per ton lower than complainant's. Effective October 24, 1924, defendants published the rates set forth in the first tabulation to Sycamore, a point 70 miles north of Knights Landing, with the result of making the Sycamore to San Francisco rate of the defendants 60 cents per ton lower than that of complainant and the Sycamore to Port Costa rate 70 cents per ton lower than complainant's. Sycamore is approximately eleven miles south of Colusa, and it is possible to truck the grain from the fields in the vicinity of Colusa to Sycamore; therefore, if shipments are made from that point instead of Colusa, the difference in the transportation charge would be 70 cents per ton, by reason of the fact that the Colusa-Port Costa rate of the Sacramento Navigation Company is \$3.20 and that of Fay & Son, Sycamore to San Francisco, \$2.50 per ton. This analysis shows that defendants' grain rates have been lower at certain points than complainant's since September 21, 1922, or for more than two years, and were in effect August 16, 1923, when the Public Utilities Act was amended.

Defendants contend that a reduction of 70 cents per ton would reflect an annual loss of \$56,000 in revenue, but presented no proof of this assertion.

The Sacramento Navigation Company operates between San Francisco and Chico Landing, a distance of approximately 267 miles. The

company has 7 tow boats, 3 packet boats and 23 barges, the barges having a capacity of from 350 to 1000 tons. The scheduled service is three times a week between San Francisco and Sacramento, and twice a week, when water conditions permit, at points north of Sacramento. In addition, an irregular service is rendered with the barges and tow boats. This company and its predecessors have maintained the service since 1862, but it will not be necessary hereto to go into the historical details of the competitive features of the operations, the same having already been reviewed in a number of proceedings. (11, C. R. C. 260; 13, C. R. C. 643.)

The Navigation Company is purely an operating company employing the facilities owned by the Sacramento Transportation Company and Farmers Transportation Company under an agreement executed in 1920, whereby it pays to these owning companies a rental of \$42,000 a year for properties given a value of \$700,000 under the lease agreement, but which the owners claim has an actual value in excess of \$1,000,000. No details were furnished by complainant as to arriving at the valuation of the properties, neither were any exhibits nor testimony presented giving the revenue, operating expenses, etc. However, it would appear from the record that under the terms of the agreement the operating company turns back to the owning companies all of the net profits, in addition to the rental of \$42,000 per annum. If the operating company fails to earn sufficient to pay the rental of \$42,000, there is no recovery, but, as the operating company was created purely for the purpose of eliminating the duplication of service rendered by the Sacramento Transportation Company and the Farmers Transportation Company, the ownership of the three companies is a mutual affair.

The testimony shows that in the territory north of Sacramento there are some thirty warehouses with landings on the Sacramento River. Of these, twenty-four are owned by the Sacramento River Warehouse Company and are under the same ownership and control as the Sacramento Navigation Company. The Sacramento Navigation Company, by the terms of its agreement, has control of the bank landings between the river and the warehouses, and will not permit vessels other than those operated by itself to use the landings at these twenty-four warehouses; therefore, it is impossible for the vessels of this defendant or other independent operators to secure cargo from the controlled warehouses unless they arrange for the transferring of the tonnage from these warehouses to river bank landings not under the control of the Sacramento Navigation Company, where boats may land, and, since there is substantial expense for this transfer, defendants are excluded entirely from the transportation of the tonnage in this district, except

such tonnage as it can secure at the six independent warehouses and from landings on farms fronting on the river.

The testimony of defendants' witness, and the tariffs on file, show that operations have been conducted by N. Fay & Son on the Sacramento River since April, 1906, and at points north of Sacramento since 1918; that it now has in the service two motor boats and two barges; that the company does not at this time and never has maintained regular schedule trips, but has always conducted a tramp service, going after cargoes whenever orders are received.

The testimony further shows that defendants secure but a very small percentage of the total tonnage moved from points north of Sacramento.

Section 50 (d) of the Public Utilities Act became effective August 16, 1923, and, in part, reads as follows:

No corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, shall hereafter operate or cause to be operated, any vessel between points exclusively on the inland waters of this state, without first having obtained from the railroad commission a certificate declaring that present or future public convenience and necessity require or will require, such operation, but no such certificate shall be required of any corporation or person which is actually operating vessels in good faith, at the time this act becomes effective, between points exclusively on the inland waters of this state under tariffs and schedules of such corporations or persons, lawfully on file with the railroad commission.

From the facts before us we conclude that this defendant was actually operating vessels in good faith at the time the act was amended, and that it had tariffs and schedules on file, as provided by the Public Utilities Act. It is a fact that the defendant operated no vessels on regular schedule, but by this action it performs a service no different than that rendered by practically all of the small vessels operating on the inland waters of this state which only move over the routes when tonnage is offered.

Section 32, paragraph (c) of the act, effective August 16, 1923, reads as follows:

The commission shall have power and it shall be its duty, upon a hearing, had upon its own motion or upon complaint, to determine the kind and character of facilities and the extent of the operation thereof, necessary to reasonably and adequately meet public requirements for service furnished by common carriers between any two or more points, and to fix and determine the just, reasonable and sufficient rates for such service and whenever two or more common carriers are furnishing service in competition with each other the commission shall have power, after hearing had upon complaint or upon its motion, when necessary for the preservation of adequate service and when public interest demands, to prescribe uniform rates, fares, tolls, rentals, charges, classifications, rules, regulations and practices to be charged, collected and observed by all such common carriers.

We have nothing before us in this record to determine the public requirements for service, nor are there any exhibits or financial statements upon which the Commission could prescribe uniform rates, fares, tolls, rentals, etc., to be observed by the common carrier operators in the territory in controversy.

The burden of proof is, under the statute, upon the complainant to show by clear and satisfactory evidence that the reduced tariff rates complained of are unreasonable and would not produce sufficient revenue to provide the funds necessary to continue and complete an adequate service to the public. Neither has the complainant furnished any proof of what the rates should be.

We are of the opinion and find that the complainant has not justified its charges, and that the proceeding should be dismissed without prejudice.

ORDER.

This case, being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, a full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

It is ordered, that the complaint in this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this fifth day of February, 1925.

DECISION No. 14541.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION, TO ISSUE AND SELL ONE MILLION FIVE HUNDRED THOUSAND DOLLARS OF SERIES "D" FIRST AND REFUNDING MORTGAGE BONDS AND TWO MILLION DOLLARS OF PREFERRED STOCK.

Application No. 10785.

Decided February 5, 1925.

Chaffee E. Hall, for Applicant.

SQUIRES, Commissioner.

OPINION.

Great Western Power Company of California asks permission to issue and sell, at 92½ per cent of their face value and accrued interest, \$1,500,000 of its Series "D" 5½ per cent 30-year first and refunding mortgage bonds, to be dated February 1, 1925; and to issue and sell at not less than 95 per cent of par value, net, \$2,000,000 par value of its 7 per cent cumulative preferred stock. It further asks permission to use \$502,914.17 of the net proceeds obtained from the sale of the bonds and preferred stock to reimburse its treasury because of income expended for the acquisition of property and for the construction, completion, extension and improvement of its facilities described in applicant's exhibits "A" and "B" and use the remainder of the net proceeds (not less than \$2,784,585.83) for the acquisition of property,

and for the construction, completion, extension and improvement of facilities described in applicant's exhibits "C" and "D."

The company reports that it will sell the \$1,500,000 of bonds, subject to their issue being authorized by the Commission, to E. H. Rollins and Sons at 92½ per cent and accrued interest. A copy of the agreement between applicant and E. H. Rollins and Sons has been filed in this proceeding as applicant's exhibit "E." The agreement shows that the bonds are to be dated February 1, 1925, to mature in thirty years and to bear interest at the rate of 5½ per cent per annum. It further shows that the bonds are to be callable, in whole or in part, on the first day of any month on 60 days' notice at 102½ per cent for the first ten years and thereafter at a premium of ¼ per cent for each year or fraction thereof of the unexpired term.

It is of record that the company has entered into no underwriting agreement covering the sale of the \$2,000,000 of 7 per cent cumulative preferred stock. The sale of this stock will be handled in the same manner as the sale of stock by applicant heretofore. It is the intention to offer the stock for sale at par. Applicant asks permission to expend of the proceeds for the payment of commissions and expenses incident to the sale of the stock an amount not exceeding 5 per cent of the par value of the stock sold. It may be that the expenses, including the commissions, will be less than 5 per cent.

The company reports in its exhibit "A" that up to December 31, 1924, it has expended for capital purposes the sum of \$502,914.17, against which the Commission has not authorized the issue of any stock or bonds. Because of this expenditure, it asks permission to reimburse its treasury in such amount through the use of proceeds obtained from the sale of the \$1,500,000 of bonds and the \$2,000,000 of 7 per cent preferred stock. The company estimates its construction expenses (exhibits "C" and "D") for 1925 at \$2,846,321. These expenses are summarized as follows:

Production capital		\$94,813 00
Big Meadows—surveys and dredging	\$54,360 00	
Big Bend—gear pumps and governor for oil supply	13,053 00	
Caribou—club house	25,000 00	
North Beach—boiler, breaching and flue	2,400 00	
Transmission capital		369,587 00
Sacramento	\$15,930 00	
Oakland	349,407 00	
Arboga	3,000 00	
Antioch	1,250 00	
Distribution capital		796,921 00
Sacramento	\$39,200 00	
Northwestern	3,000 00	
Oakland	368,406 00	
San Francisco	246,078 00	
Napa	84,919 00	
Petaluma	24,918 00	
Santa Rosa	24,583 00	
Steam heat	5,817 00	

Distribution line extensions—general capital.....		\$1,500,000 00
San Francisco division	\$545,000 00	
Northwestern division	95,000 00	
Oakland division	515,000 00	
Sacramento division	315,000 00	
Big Meadows division	30,000 00	
General capital		\$5,000 00
Butte Valley roads.....	\$10,000 00	
Sutter Street office building.....	35,000 00	
Sacramento Service building.....	40,000 00	
Total		\$2,846,321 00

If the company's \$1,500,000 of bonds and \$2,000,000 of stock are sold at the net prices indicated herein, it will realize the sum of \$3,287,500. The construction expenditures, which have not heretofore been financed through the issue of bonds and stock, and the estimated expenditures for 1925 amount to \$3,349,235.17.

I herewith submit the following form of order:

ORDER.

Great Western Power Company of California having applied to the Railroad Commission for permission to issue and sell \$1,500,000 of bonds and \$2,000,000 of 7 per cent cumulative preferred stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such stock and bonds is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or income;

It is hereby ordered, that the Great Western Power Company of California be and it is hereby authorized to issue, sell and deliver, on or before May 1, 1925, at not less than 92½ per cent of their face value, \$1,500,000 of its Series "D" 5½ per cent 30-year first and refunding mortgage bonds to be dated February 1, 1925.

It is hereby further ordered, that the Great Western Power Company of California be and it is hereby authorized to issue, sell and deliver, on or before December 31, 1925, at not less than 95 per cent of par value, net to applicant, \$2,000,000 par value of its 7 per cent cumulative preferred stock.

The authority herein granted is subject to further conditions as follows:

1. Of the net proceeds realized from the sale of the bonds and preferred stock, \$502,914.17 may be used by applicant to reimburse its treasury because of income expended for the acquisition of properties, and for the construction, completion, extension and improvement of its facilities described in applicant's exhibit "A" and exhibit "B," provided only such costs as are properly chargeable to fixed capital accounts under the uniform system of accounts prescribed by the

Railroad Commission may be financed through the use of the \$502,914.17.

2. The remainder of the net proceeds obtained from the sale of the bonds and stock herein authorized to be issued and sold may be used by applicant to finance such portion of the cost of the additions and betterments described in exhibit "C" and exhibit "D," filed in this proceeding, as is properly chargeable to fixed capital accounts under the uniform system of accounts as prescribed by the Commission.

3. Applicant shall keep such record of the issue, sale and delivery of the bonds and stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue and sell stock will become effective upon the date hereof. The authority herein granted to issue and sell bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,250.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of February, 1925.

DECISION No. 14542.

IN THE MATTER OF THE APPLICATION OF THE SUTTER-BUTTE CANAL COMPANY, A CORPORATION, TO ISSUE ONE HUNDRED FIFTY THOUSAND DOLLARS OF PAR VALUE PREFERRED STOCK.

Application No. 10790.

Decided February 9, 1925.

Derlin and Brookman, by *Douglas Brookman*, for Applicant.

DECOTO, *Commissioner*.

OPINION.

Sutter-Butte Canal Company asks permission to issue and sell, at not less than \$95 per share, 1500 shares (\$150,000 par value) of its 7 per cent cumulative preferred stock and use the proceeds to reimburse its treasury and pay the indebtedness to which reference is hereafter made.

Sutter-Butte Canal Company has an authorized stock issue of \$2,250,000, divided into \$1,250,000 of common and \$1,000,000 of 7 per cent cumulative preferred. Of the common stock \$1,219,800 and of the preferred stock \$204,300 was reported as outstanding on December 31, 1924. The outstanding preferred stock was issued under the authority granted by the Commission in Decision No. 12068, dated May 12, 1923,

in Application No. 8893. The company has regularly paid the dividends on its preferred stock, but has paid no dividend on its common stock.

The funded debt of the company on December 31, 1924, amounted to \$850,000 and consisted of 6½ per cent first mortgage bonds, dated March 1, 1923, and due March 1, 1943. The other debt of the company, on December 31, 1924, was represented by notes payable in amount of \$163,200 and accounts payable amounting to \$68,938.30. It is primarily for the purpose of paying part of these notes and accounts payable that the company at this time asks permission to issue and sell \$150,000 of its preferred stock.

There has been filed in this proceeding, as applicant's exhibit No. 1, a statement in which applicant reports that since December 31, 1912, it expended for fixed capital \$779,275.08, which was not obtained through the issue of bonds or stock. It is of record that this money was obtained from the following sources:

Assessment on common stock -----	\$366,300 00
Notes payable -----	163,200 00
Other loans -----	68,918 00
Reserve for accrued depreciation -----	73,238 00
Reserve for extraordinary repairs -----	6,630 00
Unappropriated corporate surplus -----	35,016 00
Miscellaneous -----	65,973 08
Total -----	\$779,275 08

It will be noted that the notes and other debts which applicant asks permission to pay through the issue of preferred stock are included in the \$779,275.08.

The testimony shows that applicant has made arrangements for the sale of \$120,000 of the stock which it now asks permission to issue.

I herewith submit the following form of order:

ORDER.

Sutter-Butte Canal Company having applied to the Railroad Commission for permission to issue \$150,000 of stock, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or income,

It is hereby ordered, that the Sutter-Butte Canal Company be and it is hereby authorized to issue, sell and deliver, on or before November 15, 1925, at not less than \$95 per share net to the company, 1500 shares (\$150,000 par value) of its 7 per cent cumulative preferred stock and use the proceeds obtained from the issue and sale of such stock to reimburse its treasury and pay the indebtedness to which reference is made in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized to be issued and of the disposition of the proceeds as will enable it to file, on or before the 25th day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective on the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of February, 1925.

DECISION No. 14544.

ANTONE RILOVICH

vs.

MARY PERKINS RAYMOND.

Case No. 2016.

Decided February 9, 1925.

Anthony Jurich, for Antone Rilovich.

Hollingsworth and Henderson, by J. C. Hollingsworth, and Clarke and Bowker, by Don Bowker, for Defendant.

BY THE COMMISSION.

OPINION.

In the above entitled case, Antone Rilovich complains against Mary Perkins Raymond, alleging that in 1910 he purchased twenty acres of land in the vicinity of the town of Ojai, Ventura County, from her predecessors, S. L. and Martha A. Stuart; that at the time of such purchase an agreement was made by said Stuarts to furnish complainant with water for agricultural and domestic purposes upon said lands; that said Stuarts were the owners of a water system located near said lands; that they conducted a public utility water works and pipe lines, serving domestic and agricultural consumers for compensation in the vicinity of complainant's lands; that the defendant is the successor in interest of said Stuarts, and as such has been operating the alleged public utility water system; that complainant has purchased and utilized such water for a period of approximately fourteen years; that it is necessary and essential for him to have water upon his said lands, and that he has received a notice from the defendant to the effect that she intends to discontinue such water service to him unless other-

wise ordered by the Railroad Commission. Complainant prays for an order requiring defendant to continue furnishing him with water.

In her answer, defendant alleges that the agreement for water service mentioned by complainant is *nudum pactum* and void for lack of consideration and mutuality. She denied that the Stuarts ever conducted a public utility water system or that the successors of said Stuarts, including herself, have been operating a public utility. As a separate defense, she alleges that the Railroad Commission possesses no jurisdiction over such service as may have been rendered by her upon the ground that such service has never been of a public utility character.

This matter came on for hearing before Examiner Wheat at Ojai on September 2, 1924, at which time it appeared that complainant and several other persons not parties to this case had purchased land from Mr. and Mrs. Stuart, the purchased tracts being subdivisions of a portion of a large ranch then owned by the Stuarts. It further appeared that the Stuarts agreed to serve these purchasers with water, and that for a period of time such water service was in fact rendered both for domestic and irrigation purposes, but that, with the single exception of complainant, such water service has been discontinued for several years, and that all of the land purchasers, save complainant, have entered into agreements releasing the Stuarts and their successors from any obligation to continue such service to them.

It appears that the water originally delivered by the Stuarts to these purchasers came from what is known as the "upper well," or "creek," a small pump having been located in a canyon some distance above these lands, a four-inch pipe conveying the water to the point of use. Complainant received water for his ranch and the orchard and nursery stock thereon from this source, a two-inch pipe conveying it over his own land, from 1910 to 1919, except for a short period, to be referred to below, but since that time defendant has practically abandoned the "upper well" and has installed a more efficient plant, known as the "lower well," upon the ranch itself, and from this has served complainant since 1919. No meter was ever installed to measure complainant's water use, but he testified that he paid "whatever he (the seller) said." The payment was frequently "taken out" in labor. There appeared to be some contention upon the part of defendant that no charge had been made for water during 1924, but this, we feel, can have no bearing upon the present proceeding.

It was evident from the testimony that the upper well was abandoned because of flood hazard and consequent likelihood of frequent heavy maintenance and repair expenses. In fact, this source was largely destroyed by flood in 1914, but was repaired in 1916 and used until final abandonment in 1919. In the interim between 1914 and 1916

complainant received water as an accommodation from one Fordyce, but this source of supply does not appear to be now available.

At the close of complainant's testimony counsel for defendant moved for a dismissal, urging as ground therefor that the original agreement for water service to complainant lacks mutuality, is uncertain, and is void because it was not signed by complainant. It appears, however, that complainant was actually served with water for a period of years at a fixed compensation. If this was a service of a public utility character, it was so because of facts and circumstances other and apart from this agreement, and, while defendant's contention might possibly possess significance if the claim was for a private contract water right, it can not, in our opinion, be the criterion in the present case as to the nature of this service. Nor can the fact of a change in the source of water supplied by defendant be the criterion. If the service was of a public utility character, no mere change in source or mechanism of supply made for the convenience of the seller could affect the status already obtaining.

We must, therefore, consider the situation apart from these circumstances. Dr. Stuart testified that the several purchasers of portions of his ranch would not have purchased without assurance of water service, and that he agreed to furnish water to them. There can be no question but that his intent was for this to be a continuous service for an indefinite period, and a pump was installed at the upper well and at times proved useful and necessary.

The records of the Commission show that in 1916 a former owner of the Raymond property filed an application with the Commission requesting authority to discontinue service to the present complainant and be relieved of public utility obligations. A hearing was held thereon, but at request of said former owner the matter was dismissed without prejudice.

It seems evident that both by intent and by practice there was a dedication of this system to public use upon the lands purchased from Stuart, and that such service was, in fact, of a public utility character. Service has been discontinued by agreement with all purchasers save this complainant, who has persistently claimed a right to continued service, and, while it may appear somewhat anomalous, we know of nothing to prevent the status of public utility and consumer obtaining where only one consumer remains under circumstances as existing in this case. It seems evident to us that the service heretofore rendered complainant has from its inception been impressed with a public use, and is therefore of a public utility character. We are therefore of the opinion that said complainant is rightfully entitled to continued service from defendant herein.

The testimony, however, tended to show, and we recognize that it may well be, that it is not economically feasible for defendant to render service to a single consumer under the existing rates, and it is possible that such service can no longer be rendered except at a rate which would be prohibitive. If such be the case, the proper remedy lies in an application to this Commission on behalf of the defendant herein for the fixing of a proper rate for such service or for authority to discontinue public utility operations, as the facts may warrant.

ORDER.

Complaint having been made that the defendant named herein threatens to discontinue water service to complainant, the matter having come on for hearing, evidence having been taken, the case being submitted and ready for decision, and it being our opinion that defendant Mary Perkins Raymond and her predecessors in interest have supplied this complainant with water as a public utility, and that this service to complainant should be continued;

It is hereby ordered, that defendant Mary Perkins Raymond be and she is hereby directed not to discontinue water service to this complainant.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 9th day of February, 1925.

DECISION No. 14545.

WEST COAST PORCELAIN MANUFACTURERS, INCORPORATED,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY.

Case No. 2088.

Decided February 9, 1925.

BY THE COMMISSION.

OPINION.

The West Coast Porcelain Manufacturers, with offices at Millbrae, California, filed complaint on January 8, 1925, alleging that the rates assessed and collected for the transportation of feldspar from Winchester and Perris to Millbrae were unjust and unreasonable to the extent they exceeded 48½ cents per 100 pounds from Winchester and 43 cents per 100 pounds from Perris.

Reparation only is sought. Rates are stated in cents per 100 pounds.

At the time these shipments moved there was in effect a rate of 54 cents from Winchester to Millbrae and a rate of 47½ cents from Perris

to Millbrae, applying to feldspar. The applicable rates were a combination of commodity and class rates over Los Angeles. From Winchester the factors were 11 cents, minimum weight 60,000 pounds, to Los Angeles, and 43 cents, minimum weight 40,000 pounds, beyond. The factors from Perris were 9 cents, minimum weight 60,000 pounds, to Los Angeles, and 38½ cents, minimum weight 40,000 pounds, beyond. The factors from Winchester and Perris to Los Angeles are not involved in this proceeding.

Reparation is sought on the basis of 37½ cents and 34 cents from Winchester and Perris, respectively, for that portion of the haul from Los Angeles to Millbrae.

The shipment from Winchester to Millbrae moved on June 20, 1922. The shipment from Perris to Millbrae moved on September 22, 1922.

The rate of 37½ cents from Los Angeles to Millbrae was not specifically published. The rate of 34 cents from Los Angeles to Millbrae was published, effective July 19, 1923, and is 10 per cent lower than the rate of 37½ cents referred to above, by reason of the general reduction authorized by the Commission, effective July 1, 1922.

In the answer to this formal complaint defendants admit all of the allegations and pray that the relief requested by the complainant be granted. Under the issues as they stand, a formal hearing is now unnecessary.

We find that the rates of 43 cents and 38½ cents from Winchester and Perris, respectively, for that portion of the haul from Los Angeles to Millbrae were unreasonable and excessive to the extent they exceeded 37½ and 34 cents, respectively; that complainant made the shipments as described in the complaint and paid and bore the charges thereon; that it has been damaged to the amount of the difference between the charges paid and those that would have accrued at the rates herein found reasonable for that portion of the haul from Los Angeles to Millbrae and that it is entitled to reparation.

The amount alleged to be due is set forth in the complaint as \$92.75, which amount cannot be verified by the present record. Complainant should furnish a statement of the shipments to defendant for check.

If it is not possible to reach an agreement, the matter may be referred to this Commission for further consideration and the entry of a supplemental order, should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing its order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company, accordingly as they participated in the transportation, be and they hereby are authorized and directed to pay unto complainant West Coast Porcelain Manufacturers Company all charges that may have been collected in excess of the rates of 37½ cents and 34 cents on shipments from Winchester and Perris, respectively, for that portion of the haul from Los Angeles to Millbrae, which rates are found to be reasonable for the transportation of feldspar involved in this proceeding.

Dated at San Francisco, California, this ninth day of February, 1925.

DECISION No. 14554.

R. J. ANGELL, ON BEHALF OF HIMSELF AND OTHERS,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2065.

Decided February 10, 1925.

M. B. Buchtell, for Complainants.

V. S. Andrus and *D. S. Wier*, for Southern Pacific Company, Defendant.

Ed. Stern, for American Railway Express Company.

BY THE COMMISSION.

OPINION.

In this proceeding, R. J. Angell, on behalf of himself and other residents of the town of Rosamond and vicinity, in Kern County, complains of defendant, Southern Pacific Company, a corporation, and alleges that the closing of the agency station at Rosamond by defendant has caused great inconvenience to passengers and shippers of freight and express; that shipments require to be prepaid when consigned to Rosamond or same are carried to either the station of Mojave or to the station of Lancaster; and that the closing of the agency has deprived the residents of Rosamond of telegraph service.

Defendant, Southern Pacific Company, filed its answer herein denying the material allegations of the complaint and alleging that the volume of business originating at and destined to the station of Rosamond does not warrant the employment of an agent at such point and the expense so incurred would be wasteful, extravagant and uneconomical.

A public hearing on this complaint was conducted by Examiner Handford at Rosamond, the matter was duly submitted and is now ready for decision.

Witnesses for complainants testified as to the inconvenience which has resulted from the discontinuance of an agency station at Rosamond; that shipments were frequently carried by to Mojave or left at the station of Lancaster, although it appears that much of the cause of complaint covered shipments which were not prepaid and which, under the carrier's regulations, were required to be delivered at an agency station. The principal complaint appears directed to the handling of express matter, consignors being required to make delivery to the train messenger at the car door, whereas formerly, when an agent was employed, the agent attended to the receipt and delivery of express to and from the trains. The objection of the principal shipper by express, who forwards milk daily to Los Angeles, is that he is required to wait for the arrival of the train from Mojave to load his shipments and that when the train is late he not only is delayed but is unable to ascertain how late the train may be. Other witnesses testified that due to the absence of an agent, and since the agency was withdrawn, they had arranged for their incoming freight to be delivered at Lancaster, where an agent is employed.

It is also of record that a considerable portion of the land owned by complainants was acquired from the defendant company and that the withdrawal of the agent would result in retarding the development of Rosamond and the surrounding territory.

Mr. V. S. Andrus, assistant superintendent of transportation of defendant company presented testimony and filed exhibits showing the volume of business heretofore handled at Rosamond, the revenue derived and the expense of conducting the agency station. The following data, pertinent to the issues herein, have been abstracted from these exhibits:

Year ending August 31, 1924—

Revenue from tickets sold.....		\$352 00
Less-than-carload freight—		
Forwarded	\$88 00	
Received	1,349 00	
		<u>1,437 00</u>
Revenue from tickets—		
Total sold and l.c.l. freight.....		\$1,789 00
Carload freight—		
Forwarded	\$3,181 00	
Received	166 00	
		<u>\$3,347 00</u>

The expense of conducting the agency for the above period has amounted to \$1,942.82. This amount is 108.60 per cent of the revenue derived from ticket sales and less-than-carload freight, both received and forwarded, and is 37.83 per cent of the total revenue received at this station.

The services of an agent are principally necessary for the public in the handling of the less-than-carload freight business and the sale of tickets. It is apparent that the expense as incurred at this station is unwarranted and not justified, exceeding as it does the total revenue received from these items of revenue.

The carload business at this station for the period covered by the exhibits shows the following:

Forwarded—

1 car cattle
3 cars manure
43 cars silica rock

Received—

1 car lumber

None of the foregoing carload shipments are of commodities requiring the services of an agent.

After full consideration of all the evidence in this proceeding, we are of the opinion and hereby find as a fact that the volume of business now transacted by the Southern Pacific Company at its station of Rosamond does not justify the establishment of an agent at such point, and that to reestablish an agency would place an undue burden on other shippers and patrons of defendant company.

In reaching this conclusion the Commission is not unmindful of the needs of those engaged in the development of a new community but the needs and requirements of all the patrons of the defendant company must also receive consideration and under the state of facts as herein fully presented we find no justification for the reestablishment of the agency.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this tenth day of February, 1925.

DECISION No. 14560.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS AND NOTES.

Application No. 10812.

Decided February 11, 1925.

Jared How and McKee, Tasheira and Wahrhaftig, by *A. G. Tasheira*, for Applicant.
W. J. Locke, for East Bay Municipal Utilities District.

BRUNDIGE, *Commissioner.***OPINION.**

In this application the Railroad Commission is asked to make an order authorizing East Bay Water Company to issue and sell, at not less than 98 per cent of face value, \$3,000,000 of its Series "D" unifying and refunding mortgage, 6 per cent 30-year gold bonds due March 1, 1955, and \$1,000,000 of 3-year 5½ per cent unsecured notes for the purpose of reimbursing its treasury and of financing the cost of additions, improvements and extensions to its properties.

The company reports its construction expenditures for the first eleven months of 1924, its work in progress on November 30, 1924, and its estimate of expenditures during December, 1924, as \$2,915,319.88, which includes expenditures for general construction and for its Upper San Leandro Project. From this amount it deducts \$172,000 on account of the investment in fixed capital of moneys represented by its reserve for accrued depreciation, \$117,701.23 received from the sale of land during 1924 and \$2,167,739.11 received from the sale of stock and bonds heretofore authorized to be issued, leaving a balance of \$457,879.54, which it reports represents uncapitalized construction expenditures as of December 31, 1924.

Applicant proposes to use \$457,879.54 to be received from the bonds and notes herein authorized to reimburse its treasury on account of these uncapitalized construction expenditures, and thereafter to pay current indebtedness. It proposes to use the remaining proceeds to be received to finance in part, the cost of its 1925 construction work, which is estimated at \$3,648,000.

The estimated expenditures are reported as follows:

Franchises and water rights-----	\$18,000 00
Landed capital-----	5,000 00
Building structures-----	3,500 00
Impounding reservoirs-----	12,500 00
Lake and river cribs-----	3,000 00
Intake suction mains-----	8,500 00
Wells-----	75,000 00
Pumping equipment-----	25,000 00
Purification system-----	8,500 00
Transmission mains-----	25,000 00
Distribution mains-----	1,570,000 00
Distribution reservoirs-----	40,000 00
Hydrants-----	50,000 00
Services-----	98,000 00
Meters-----	142,000 00
General Equipment-----	50,000 00
Undistributed construction expenditures-----	64,000 00
Upper San Leandro Project-----	1,750,000 00
Subtotal-----	\$3,948,000 00
Deduct—	
For depreciation, 1925-----	\$200,000 00
For estimated land sales, 1925-----	100,000 00
	300,000 00
Total-----	\$3,648,000 00

According to the testimony herein the estimated expenditure of \$1,570,000 for distribution mains includes \$1,100,000 to complete the installation and construction of the improvements, extensions and additions to the company's distribution system and facilities which the Commission directed the company to make by Decision No. 13331, dated March 27, 1924, in Case No. 1977.

During 1925 the company estimates that it will expend \$1,750,000 on its Upper San Leandro Project. In a former proceeding the company reported the estimated cost of this project at \$2,388,991, and the estimated cost of lands, water rights and rights of way necessary in connection therewith at \$500,000, making a total of \$2,888,991. The record in this application shows expenditures during 1924 on the project of approximately \$974,718 and estimated expenditures during 1925 of \$1,750,000, a total of \$2,724,718. In addition to these expenditures it is thought that approximately \$200,000 will be expended during 1926 to complete the project, making the total cost of the development approximately \$3,000,000.

Adding the estimated expenditures of \$3,648,000 to the reported uncapitalized expenditures, as of December 31, 1924, of \$457,879.54, results in a total of \$4,105,879.54. It is to finance in part these expenditures of \$4,105,879.54 that the request is made for permission to issue bonds and notes.

The \$3,000,000 of bonds to be issued are part of a total authorized issue of \$50,000,000 of unifying and refunding mortgage bonds. Herebefore the Commission has authorized the company to issue and sell \$2,500,000 of Series "A" 7½ per cent bonds due 1936, \$3,000,000 of Series "B" 6 per cent bonds due 1942 and \$2,000,000 of Series "C" 6 per cent bonds due 1944. The proposed bonds are to be designated Series "D," are to be dated March 1, 1925, to mature March 1, 1955, to bear interest at 6 per cent per annum, and to be callable in whole or in part on any interest payment date prior to maturity at 105. In the event of the sale of applicant's properties to any public corporation, the bonds are callable as a whole at 103.

The \$1,000,000 of unsecured notes are to be issued pursuant to the terms of an agreement dated February 1, 1925, with The American Bank, and are to be dated February 1, 1925, to mature February 1, 1928, and to bear interest at 5½ per cent per annum. The notes are to be callable at 101 during the first year, at 100.5 during the second year, and at 100 during the last year.

Applicant reports that it has made arrangements to sell its bonds and notes at 98 per cent of face value plus accrued interest. In the event the purchasers of the bonds are able to sell them at a price in excess of 101½ per cent the company will receive, in addition, such excess.

The East Bay Municipal Utilities District was represented by counsel at the hearing held in this matter, but made no objection to the granting of this application.

I herewith submit the following form of order:

ORDER.

East Bay Water Company, having applied to the Railroad Commission for permission to issue and sell bonds and notes, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that East Bay Water Company be and it is hereby authorized to issue and sell on or before October 1, 1925, at not less than 98 per cent of face value plus accrued interest \$3,000,000 of its Series "D" unifying and refunding mortgage 6 per cent bonds due March 1, 1955.

It is hereby further ordered, that East Bay Water Company be and it is hereby authorized to execute an agreement substantially in the same form as that filed with the Commission in this proceeding as Exhibit No. 1, and to issue and sell on or before October 1, 1925, at not less than 98 per cent of face value plus accrued interest \$1,000,000 of its 5½ per cent 3-year unsecured notes due February 1, 1928.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute an agreement is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of such agreement as to such other legal requirements to which such agreement may be subject.

2. Applicant may use not exceeding \$457,879.54 of the proceeds to be received from the sale of the bonds and notes herein authorized to reimburse its treasury and to finance the cost of extensions, additions and betterments made prior to December 31, 1924. The remaining proceeds other than the accrued interest may be used to finance in part the estimated cost of extensions, additions and betterments to be made during 1925, referred to herein, provided that only such expenditures as are properly chargeable to capital accounts, as defined by the Classification of Accounts prescribed by the Railroad Commission may be financed with such proceeds. The accrued interest may be used for general corporate purposes.

3. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$2,500.

4. Applicant shall keep such record of the issue, sale and delivery of the bonds and notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eleventh day of February, 1925.

DECISION No. 14562.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF STOCK.

Application No. 10786.

Decided February 14, 1925.

Murray Bourne, for Applicant.

DECOTO, Commissioner.

OPINION.

In the above numbered application San Joaquin Light and Power Corporation asks permission to issue and sell at not less than \$94 per share, 10,000 shares (\$1,000,000 par value) of its 7 per cent cumulative prior preferred stock. The company further asks permission to use the proceeds obtained from the sale of the stock to reimburse its treasury for, or to provide the cost of, making additions, extensions, improvements, or betterments to its properties made, or to be made, subsequent to November 30, 1924, the cost of which has not been reimbursed to applicant or provided for through the proceeds of the sale of other securities.

San Joaquin Light and Power Corporation has an authorized stock issue of \$150,000,000 divided into \$75,000,000 of 7 per cent cumulative prior preferred stock, \$18,500,000 of Class "A" 7 per cent cumulative preferred stock, \$6,500,000 of Class "B" 6 per cent cumulative preferred stock and \$50,000,000 of common stock.

As of December 31, 1924, the company reports outstanding stock in the amount of \$26,519,800 divided into \$9,019,800 of 7 per cent cumulative prior preferred, \$6,424,200 of Class "A" 7 per cent cumulative preferred, \$75,800 of Class "B" 6 per cent cumulative preferred, and \$11,000,000 of common stock.

As of December 31, 1924, applicant reports its funded debt in the hands of the public at \$35,464,000 divided into \$7,800,000 of 7 per cent bonds, \$24,589,000 of 6 per cent bonds and \$3,075,000 of 5 per cent bonds. Its current and accrued liabilities are reported at \$1,513,814.66, while its current and accrued assets are reported at \$6,626,883.40.

Applicant in its Exhibit B-1 reports its actual or estimated construction expenditures against which the Commission has not authorized the issue of any bonds or stock at \$2,436,218.66. The expenditures are reported as follows:

Balance of construction expenditures unfinanced at December 31, 1924, as per January, 1925, report under Application No. 9967----	\$768,769 97
Balance to complete approved estimates at December 31, 1924, as per statement of expenditures on file with the Commission-----	\$426,621 23
Less estimate No. 8892, Nelson Dev. -----	228,332 80
	<hr/>
	198,288 43
Estimated expenditures in 1925.	
Kings River development -----	\$1,029,100 00
Miscellaneous production capital at various locations -----	79,458 00
10 kv. condensers to be located either at California avenue or Midway -----	75,000 00
Increase capacity Coarse Gold substation -----	10,158 00
Increase capacity Henrietta substation -----	58,395 00
Increase capacity Kearney substation -----	38,504 00
Increase capacity Caruthers substation -----	7,000 00
Increase capacity Madera substation -----	7,414 00
Increase capacity Raymond substation -----	9,932 00
New 110 kv. substation near Kingsburg -----	137,115 00
New 110 kv. substation near Le Grand -----	120,440 00
Regulation, etc., at Corcoran substation -----	23,900 00
Regulation, etc., at Midway substation -----	18,000 00
Regulation, etc., at Sanger substation -----	20,905 00
Regulation, etc., at Alta Vista substation -----	6,802 00
Regulation, etc., at Orchard avenue substation -----	6,802 00
Switching and other equipment at Dairyland -----	10,708 00
Miscellaneous installations at various substations, etc. -----	47,180 00
Line, Midway to Shafter -----	45,000 00
Tie lines, switches, increase copper, etc., to improve service:	
Bakersfield District -----	11,000 00
Corcoran -----	14,000 00
Dinuba -----	14,935 00
Fresno -----	111,250 00
Madera -----	53,960 00
Merced -----	3,750 00
San Joaquin -----	1,436 00
Selma -----	58,900 00
Taft -----	2,500 00
Expenditures for new business—electric -----	1,526,645 00
Expenditures for new business—gas-----	47,901 00
Mains, etc., to increase capacity of gas system-----	61,837 00
New gas generator, etc., at Merced-----	24,500 00
Increase communication lines and protection at various locations -----	20,835 00
Improvements, etc., at various locations-----	12,980 00
Furniture and fixtures, including filing and book-keeping equipment -----	31,175 00
	<hr/>
	2,100,492 00
Total (carried forward)-----	<hr/>
	\$4,716,475 40

Brought forward	\$4,716,475 40
Less proceeds of securities on hand applicable to above:	
Bonds, Application No. 9651	\$446,957 58
Bonds, Application No. 10073	1,425,000 00
Stock, Application No. 5207	259,475 20
Stock, Application No. 9967	148,823 96
	<hr/> 2,280,256 74
	<hr/> \$2,436,218 66

Applicant asks permission to combine the proceeds obtained from the sale of the \$1,000,000 of stock which it now asks authority to issue with the proceeds obtained from the sale of stock issued by orders in Applications Nos. 5207 and 9967. Consolidation of the proceeds obtained from the sale of stock authorized by the several decisions of the Commission will simplify the filing of reports under the Commission's General Order No. 24.

I herewith submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation, having applied to the Railroad Commission for permission to issue and sell \$1,000,000 of its 7 per cent cumulative prior preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, as follows:

1. San Joaquin Light and Power Corporation may issue and sell on or before December 31, 1925, at not less than par, \$1,000,000 of its 7 per cent cumulative prior preferred stock.
2. Of the proceeds realized from the sale of the stock herein authorized to be issued and sold, San Joaquin Light and Power Corporation may, if necessary, use an amount equal to not more than 5 per cent of the par value of the stock sold to pay commissions and other expenses incident to the sale of the stock. The remainder of the proceeds and such portion of the 5 per cent herein allowed for payment of commissions and other expenses incident to the sale of the stock not necessary for such purposes, shall be used by applicant to reimburse its treasury for, or to provide the cost of, making additions, extensions, improvements or betterments to its properties made, or to be made, subsequent to November 30, 1924, described in its Exhibit B-1, provided that only such part of said cost as is properly chargeable to fixed capital accounts, as defined by the uniform system of accounts prescribed or adopted by the Commission, and not heretofore financed through the issue of stock and bonds, may be financed with the proceeds from the sale of the stock and bonds herein authorized to be issued.

3. San Joaquin Light and Power Corporation shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. For the purpose of reporting under the Commission's General Order No. 24, San Joaquin Light and Power Corporation may consolidate the proceeds obtained from the sale of the \$1,000,000 of stock with the proceeds obtained from the sale of stock, the issue of which is authorized by the Commission's decisions in Applications Nos. 5207 and 9967.

5. The authority herein granted will become effective upon the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of February, 1925.

DECISION No. 14565.

IN THE MATTER OF THE APPLICATION OF COLONEL ED. FLETCHER AND SHERMAN WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE AND TRANSFER OF A PORTION OF THE SHERMAN WATER COMPANY SYSTEM AND THE ISSUANCE OF CAPITAL STOCK THEREFOR.

Application No. 10614.

Decided February 14, 1925.

Ed. Fletcher, for Applicants.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing held before Examiner Fankhauser, the Railroad Commission is asked to authorize Ed. Fletcher to transfer certain public utility water properties to Sherman Water Company, a corporation, and to authorize Sherman Water Company to issue, at this time, in part payment for such properties, stock in a nominal amount only.

The water system involved in this application is known as the Sherman Water Company and is used to supply water for domestic and commercial purposes in and about the town of Sherman, Los Angeles County.

The assets and liabilities of the system, as of November 30, 1924, are reported as follows:

<i>Assets.</i>	
Fixed capital	\$171,347 27
Construction work in progress	3,753 44
Cash	294 62
Accounts receivable	7,105 45
Materials and supplies	1,750 09
Prepayments	305 24
Corporate deficit	5,125 99
Total assets	\$189,682 10
<i>Liabilities.</i>	
Accounts payable	\$77,552 22
Consumers' deposits	142 11
Consumers' advances	23,197 43
Accruals	619 98
Reserve for depreciation	3,221 56
Proprietorship	84,948 80
Total liabilities	\$189,682 10

The properties are now owned by Ed. Fletcher who acquired them from W. P. Cunningham and F. B. R. Cunningham, pursuant to authority granted by the Commission in Decision No. 12805, dated November 8, 1923, in Application No. 9441. In filing Application No. 9441 with the Commission, it was reported that it was Mr. Fletcher's intention, upon acquiring the properties, to organize a corporation to take over and operate such properties as a public utility, to install an additional storage reservoir and otherwise improve the system.

Accordingly, on or about November 21, 1923, Sherman Water Company, one of the applicants herein, was organized. The articles of incorporation, a copy of which is filed with the application, show that it has an authorized capital stock of \$500,000, divided into 5000 shares of the par value of \$100 each, all common. In the application as originally filed, a request was made for permission to issue the entire authorized capital stock. This request was modified at the hearing, the corporation reporting that, pending a final determination of the value of the properties, it desired to issue a nominal amount of stock only.

Some evidence was introduced at the hearing bearing on the value of the properties. W. M. Cook, engineer for applicant, introduced a report, which was designated Applicants' Exhibit No. 2 in which he estimates the cost of the water system as of December 30, 1924, as \$167,545.24, including \$25,000 for intangible capital. F. H. Van Hoesen, one of the Commission's hydraulic engineers, introduced a report, the Commission's Exhibit No. 1, in which the original cost as

of January 1, 1925, exclusive of lands, franchise value or water rights, was estimated at \$138,231, and the reproduction cost as \$147,834. The amendment of the application at the hearing as indicated above makes it unnecessary to find a definite value for the properties at this time.

In acquiring the properties, Sherman Water Company will assume the payment of the outstanding liabilities, which, as shown in the foregoing balance sheet, aggregated \$101,511.74 on November 30, 1924, the date of the latest financial statement filed with the Commission. The order herein will authorize the transfer of the water properties to Sherman Water Company, a corporation, and the assumption by such corporation of the outstanding indebtedness, and the issue at this time of \$50,000 of stock in part payment therefor. The authority herein granted to issue stock or assume indebtedness is not to be construed as a finding of value of the water properties. Hereafter, upon further request from applicants and upon filing of additional evidence, the Commission, if it deems it appropriate, will enter a supplemental order increasing the amount of stock.

There has been filed in this proceeding a copy of an agreement dated January 1, 1924, by and between the Title Guarantee and Trust Company, called the licensor, and Sherman Water Company, a corporation, called the licensee, covering the sale of water by the former to the latter. Under this agreement, the licensee agrees to pay the licensor for the right to pump and remove water from Tract No. 4769; Tract No. 4912; Tract No. 4934; Tract No. 5939; and Tract No. 5125, the sum of four cents per hundred cubic feet of water pumped and removed. The licensee is required to install all pumps and to pay all expenses in connection with the operation of the same, and further, hold the licensor free and harmless from any and all loss, damage or liability, by reason thereof. The agreement shall continue in full force and effect as to any and all property owned in said tracts by the licensor during the time that such property is owned by the licensor and for a term of 20 years from the date of the agreement. Quoting from the agreement:

It is understood that the licensor is the owner of said property in the capacity of trustee only under its Trust No. 764, and that the licensor does not personally assume any obligation or liability and shall be bound only to the extent that as trustee it may obligate the trust estate held by it in trust.

It occurs to us that the agreement between the Title Guarantee and Trust Company and the Sherman Water Company is definite only in one respect, namely, that it gives the company permission to remove water from the tracts mentioned, at a cost of four cents per hundred cubic feet, the company bearing all expenses incident to drilling wells,

installing pumping equipment and operating such equipment. The agreement is not between the actual owners of the tracts, but between the trustee and the company, and terminates when the trustee's estate in the property ceases. The agreement is not in satisfactory form.

The authority herein granted to transfer property and issue stock and assume indebtedness will not become effective until there has been filed with the Commission, in form satisfactory to the Commission, a copy of an agreement entered into between Sherman Water Company, and the actual owners of the wells from which Ed. Fletcher or Sherman Water Company now obtain their water supply sold to residents served by the property described in this application. The agreement should run for not less than twenty years and be not terminated by the transfer of the ownership of the wells. While we do not at this time raise any objection to the price being paid for the right of pumping and removing water from the aforesaid premises, the Commission may modify such price in any future rate or other proceeding. The Sherman Water Company, a corporation, should not be obligated to pay more for water than the rate which the Commission will recognize as a proper operating expense.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of public utility water property, the issue of stock and assumption of indebtedness, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted as herein provided;

It is hereby ordered, that upon the filing with the Railroad Commission in form satisfactory to the Commission, of a contract covering the purchase of water by the Sherman Water Company, a corporation, Ed. Fletcher, doing business under the firm name and style of Sherman Water Company, be and he is hereby authorized to transfer to the Sherman Water Company, a corporation, the public utility property described in this application, and Sherman Water Company, a corporation, be and it is hereby authorized to purchase such property, and in payment therefor assume the payment of not more than \$101,511.74 indebtedness and issue \$50,000 of common stock.

The authority herein granted is subject to the following conditions:

1. The consideration which the Sherman Water Company, a corporation, is hereby authorized to pay for the properties referred to above shall not be urged before this Commission as a measure of the value of such properties other than the transfer herein authorized.
2. Within thirty (30) days after the execution of the deed conveying the property herein authorized to be transferred a verified copy thereof shall be filed with the Railroad Commission.

3. Sherman Water Company, a corporation, shall keep such record of the issue and delivery of the stock herein authorized to be issued as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. Sherman Water Company, a corporation, shall file with the Railroad Commission a detailed statement of the indebtedness which it assumes as part payment for the properties which it is herein permitted to acquire.

5. The authority herein granted will not become effective until applicants have filed with the Commission a copy of the contract referred to in this order.

6. The authority herein granted to transfer properties, issue stock and assume indebtedness will terminate on December 31, 1925.

Dated at San Francisco, California, this fourteenth day of February, 1925.

DECISION No. 14577.

CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION,

vs.

SPRING VALLEY WATER COMPANY, A CORPORATION.

Case No. 842.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY FOR PERMISSION TO INCREASE THE RATES AND CHARGES FOR WATER FURNISHED BY IT TO THE CITY AND COUNTY OF SAN FRANCISCO AND ITS INHABITANTS.

Application No. 2739.

Decided February 18, 1925.

BRUNDIGE, *Commissioner*.

THIRD SUPPLEMENTAL ORDER.

Spring Valley Water Company having asked permission to amend Condition No. 3 of the Commission's order in Decision No. 9352, dated August 12, 1921, as amended by the Commission's order of April 12, 1922 (Decision No. 10295), so as to permit the applicant to draw, to the extent indicated in this order, upon the amortization fund established by the aforesaid decisions to pay for additions and betterments to its properties not covered by the allowance for the depreciation reserve; a public hearing having been held and the Commission having considered applicant's request, and being of the opinion that such request should be granted; therefore,

It is hereby ordered, that Condition No. 3 of the Commission's order in Decision No. 9352, dated August 12, 1921, as amended by the Commission's Decision No. 10295 dated April 12, 1922, be and it is hereby amended as of the date of the original order, to read as follows:

Commencing with the year 1922 the Spring Valley Water Company shall create and establish out of its surplus a fund for the purpose of amortizing the capital expenditures which will be incurred by the company in accordance with the above requirements, such fund being hereinafter referred to as the amortization fund. Said amortization fund shall be created and maintained as follows:

After full provision has been made during each year for the payment of operating and maintenance expenses, including the cost of operating the Hetch Hetchy conduit and pumping station (including likewise the payment of interest on the cost of construction of such conduit and pumping station as provided in condition 2 of said order) the payment of taxes and assessments, the creating of a depreciation reserve of \$300,000 per annum, the payment of interest on all bonds and notes and other interest bearing indebtedness, and the payment of dividends at the rate of 5 per cent per annum upon the outstanding capital stock of the aggregate par value of \$28,000,000, there shall be set aside out of the surplus after meeting the foregoing requirements, and placed in the amortization fund, such sum, hereinafter referred to as the annual contribution, as will upon the expiration of a term of twelve years, with interest at 5 per cent compounded annually, yield a total sum equivalent to the aggregate of the capital expenditures required under the provisions of condition 1 of said order; provided, however, that if the revenues of any particular year shall exceed the requirements of the Spring Valley Water Company as hereinabove set forth by more than the amount of such annual contribution, the amount of such excess shall be apportioned equally between the amortization fund and the surplus of the Spring Valley Water Company; provided further that if the revenues of any particular year shall be insufficient to yield a surplus equivalent to such annual contribution above the aforesaid requirements of the Spring Valley Water Company, the company shall not, during such year or thereafter, be required to make any contribution to the amortization fund until a surplus shall have been derived in subsequent years in a sufficient aggregate amount to make up such deficit or accumulated deficits, together with interest upon the amount thereof at the rate of 7 per cent per annum; provided, further, that the Spring Valley Water Company shall not be required to make any contribution to the amortization fund during the years 1922 and 1923, but in the event that the properties of the Spring Valley Water Company which were offered for sale to the city and county of San Francisco on the fourteenth day of January, 1921, shall be purchased by the city and county of San Francisco prior to the first day of January, 1934, the sum which shall be transferred to and become the property of the city and county of San Francisco as hereinafter provided shall not be less than the sum which would have been accumulated if contribution had been made to the amortization fund in accordance with the foregoing requirements of this condition. All moneys placed in the amortization fund herein required to be established shall be invested by the Spring Valley Water Company in such manner as will in its judgment afford the maximum interest yield consistent with safety of principal. In the event that the depreciation reserve of \$300,000 per annum hereinbefore provided shall be insufficient to defray the expenditures of the Spring Valley Water Company for the renewal and replacement of operative properties and for additions to and extensions of its water supply and distribution system, the Spring Valley Water Company is authorized, to the extent of such insufficiency, to reimburse itself for the cost of additions to and extensions of its water supply and distribution system out of such moneys as have been or shall be placed in the amortization fund or as shall become available therefor, which are additional to the annual contributions, and to the interest accumulations upon such annual contributions; provided, that upon all moneys so expended from the amortization fund a charge of five (5) per cent per annum shall be credited to the amortization fund to reimburse it for loss of interest upon said moneys and shall be paid by the Spring Valley Water Company into said fund; and provided further that the making of any such addition or betterment shall be submitted to the City Engineer and if disapproved by him within thirty days after such submission and such addition or betterment shall nevertheless be made or have been made, it shall not be permitted to the Spring Valley Water Company to reimburse itself for the cost thereof in the manner

herein provided. The additions to and extensions of the water supply and distribution system of the Spring Valley Water Company, for which it is so reimbursed as aforesaid, shall, to the extent of such reimbursement, be in the place and stead of the amortization fund.

It is hereby further ordered, that the order in Decision No. 9352, dated August 12, 1921, as amended, shall remain in full force except as modified by this third supplemental order.

The foregoing order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of February, 1925.

DECISION No. 14584.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION FIXING FAIR AND REASONABLE RATES FOR GAS SUPPLIED TO ITS CONSUMERS.

Application No. 6108.

Decided February 24, 1925.

BY THE COMMISSION.

SIXTH SUPPLEMENTAL ORDER.

WHEREAS, in Decision No. 9125 (20 C. R. C. 64), in the above entitled matter, this Commission provided, with reference to the rates therein established, that such rates would be subject to increase or decrease by amounts as set forth therein, upon approval of the Railroad Commission, based upon a change in the price paid for oil in the various communities served; and

WHEREAS, Pacific Gas and Electric Company makes affidavit that, as of February 4, 1925, the price paid for oil was increased;

It is hereby ordered, that Pacific Gas and Electric Company be and it is authorized to increase the rates for gas service, as determined in Decision No. 13144 (24 C. R. C. 475) effective for all regular meter readings taken on and after March 4, 1925, so that the rates of the several schedules shall be less than the basic rates of the respective schedules, set forth in Decision No. 9125, by the following amounts:

Schedule G-1	2 cents per 1,000 cubic feet.
Schedule G-3	4 cents per 1,000 cubic feet.
Schedule G-4	2 cents per 1,000 cubic feet.
Schedule G-5	2 cents per 1,000 cubic feet.
Schedule G-6	2 cents per 1,000 cubic feet.
Schedule G-7	4 cents per 1,000 cubic feet.
Schedule G-8	7 cents per 1,000 cubic feet.
Schedule G-9	4 cents per 1,000 cubic feet.

It is hereby further ordered, that Pacific Gas and Electric Company, in case it elects to exercise this privilege, file with the Commission on or before March 1, 1925, revisions of its schedules as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14585.

ROBERT H. DALY ET AL.

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 1843.

Decided February 24, 1925.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

WHEREAS, this Commission in its Decision No. 12580 (23 C. R. C. 841) in the above entitled matter, provided with reference to the steam rates of the Pacific Gas and Electric Company, that such rates be subject to increase or decrease, upon approval of the Railroad Commission, on the basis of 3 cents per thousand pounds of steam for each 10 cents per barrel increase or decrease, respectively, in the price of oil above or below the basic price of oil per barrel, effective August 1, 1923; and

WHEREAS, Pacific Gas and Electric Company now makes affidavit that on February 4, 1925, the price paid for oil was increased by 25 cents per barrel, making a total increase of 65 cents per barrel above the basic price of oil, effective August 1, 1923;

It is hereby ordered, that Pacific Gas and Electric Company be and it is authorized to increase its rates for steam as determined in said Decision No. 12580 by 19 cents per thousand pounds, effective for all regular meter readings taken on and after March 4, 1925.

It is hereby further ordered, that Pacific Gas and Electric Company, in case it elects to exercise this privilege, file with the Commission, on or before March 1, 1925, revisions of its schedule as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14586.

IN THE MATTER OF THE APPLICATION OF GEORGE R. BLISS FOR
CERTIFICATE OF PUBLIC NECESSITY AND CONVENIENCE.

Application No. 10475.

Decided February 24, 1925.

George R. Bliss, in propria persona.

BY THE COMMISSION.

OPINION.

In this proceeding George R. Bliss asks for a certificate of public convenience and necessity for the operation of a public utility water system for irrigation purposes near Carpinteria, in Santa Barbara County, and for the establishment of reasonable charges for the service to be rendered.

A public hearing in this matter was held by Examiner Williams at Santa Barbara, after due notice thereof had been given so that all interested parties might appear and be heard.

The testimony shows that George R. Bliss is the owner jointly with his wife of certain ranch property, upon which is located a well and pumping plant capable of producing a continuous flow during the summer months of approximately 40 miner's inches of water. The distribution system connected therewith is so located as to be able to deliver water to some two hundred acres of orchard lands now desiring irrigation service from this source.

The applicant has already been authorized by the board of supervisors of Santa Barbara County to construct, maintain and operate the pipe lines necessary for the service contemplated in the application herein.

The evidence indicates that the estimated reasonable cost of the present water system is approximately \$9,000, exclusive of certain improvements to be installed before the irrigation season of 1925.

There are no records available of the actual costs of the operation of this plant. It will therefore be necessary to establish a schedule of rates similar to those now in effect on other water systems of a similar character operating under like conditions.

No other public utility is supplying water in this territory and no one appeared to protest the issuance of a certificate of public convenience and necessity. It appears that the application should be granted.

ORDER.

George R. Bliss having made application to this Commission as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that George R. Bliss operate a water system for the purpose of supplying water for irrigation purposes in the territory more particularly described in the application herein.

It is hereby ordered, that George R. Bliss be and he is hereby authorized to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for all water delivered to consumers subsequent to February 28, 1925:

0 to 1,000 cubic feet, per 100 cubic feet -----	6 cents
Above 1,000 cubic feet, per 100 cubic feet -----	5 cents
Minimum charge per irrigation -----	\$2.50

It is hereby further ordered, that George R. Bliss be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14589.

IN THE MATTER OF THE APPLICATION OF MIDDLE YUBA HYDRO-ELECTRIC POWER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING APPLICANT TO ISSUE NOTES TO REFUND EXISTING NOTES.

Application No. 10826.

Decided February 24, 1925.

Nilon and Nilon, by Frank M. Nilon, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing held before Examiner Fankhauser, Middle Yuba Hydro-Electric Power Company asks permission to issue to George B. Agnew two three-year unsecured six per cent notes for \$101,239.20, one note to be in the principal amount of \$74,500.00, and the other, \$26,739.20.

Middle Yuba Hydro-Electric Power Company is engaged in the business of buying, selling and distributing electric energy in the Alleghany and Forest Mining Districts, Sierra County. The record shows that applicant originally planned the construction of dams, reservoirs and power plants along the Middle Fork of the Yuba River, but that subsequently it abandoned these plans, building only the

transmission and distribution systems and purchasing its electric energy from Pacific Gas and Electric Company.

For the years ending December 31st applicant reports its revenues and expenses as follows:

<i>Item</i>	<i>1922</i>	<i>1923</i>	<i>1924</i>
Operating revenues -----	\$51,585 27	\$54,181 21	\$50,394 54
Operating expenses -----	41,530 55	38,152 19	34,265 91
Net operating revenues -----	\$10,054 72	\$16,029 02	\$16,128 63
Deduct—			
Interest -----	6,744 12	6,705 58	6,316 22
Profit for year -----	\$3,310 60	\$9,323 44	\$9,812 41

The company reports that in constructing its transmission and distribution systems and in making engineering surveys it expended \$94,902.35, of which amount \$74,500 was advanced by Mr. Agnew. Pursuant to the authority granted by Decision No. 5482, dated June 12, 1918, in Application No. 3701, applicant issued a \$74,500 6 per cent note due January 1, 1921, and a \$26,739.20 6 per cent note due January 1, 1921. It is these notes which applicant asks permission to refund through the issue of new notes.

ORDER.

Middle Yuba Hydro-Electric Power Company having applied to the Railroad Commission for permission to issue notes in the principal amount of \$101,239.20, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided, and that the money, property or labor to be procured or paid for through the issue of such notes is reasonably required by applicant for the purposes specified herein;

It is hereby ordered, that Middle Yuba Hydro-Electric Power Company be and it is hereby authorized to issue to George B. Agnew two 3-year 6 per cent promissory notes due January 1, 1928; one to be in the principal amount of \$74,500 and the other \$26,739.20.

The authority herein granted is subject to the following conditions:

1. The notes herein authorized to be issued shall be delivered to refund the notes of like amount now outstanding to which reference is made in the foregoing opinion.

2. Within 30 days after the issuance of the notes herein authorized, applicant shall file with the Commission a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted shall become effective upon the date hereof. Under such authority no notes may be issued or delivered after June 30, 1925.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14592.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF RATES OF THE WESTERN STATES GAS AND ELECTRIC COMPANY FOR SERVICE OF GAS IN THE CITY OF STOCKTON.

Case No. 1664.

Decided February 24, 1925.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, in Decision No. 13332 (24 C. R. C. 677), in the above entitled matter, this Commission provided with reference to schedule "A" therein established, that such rates, with the exception of the first block, would be subject to increase or decrease, upon approval of the Railroad Commission, on the basis of $1\frac{1}{2}$ cents per thousand cubic feet for each 10 cents increase or decrease in the price paid for oil above or below the price of \$1.15 per barrel f.o.b. Stockton; and

Whereas, Western States Gas and Electric Company now makes affidavit that on February 1, 1925, the price paid for oil was increased by 25 cents per barrel to \$1.40 f.o.b. Stockton, which is 25 cents per barrel more than the basic price upon which rates were established in Decision No. 13332;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to increase its rates designated as Schedule "A" effective for all meter readings taken on and after March 1, 1925, so that said rates shall be 4 cents per thousand cubic feet more than the basic rates set forth in said Decision No. 13332.

It is hereby further ordered, that Western States Gas and Electric Company, in case it elects to exercise this privilege, file with the Commission on or before March 1, 1925, a revision of its schedules as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14594.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE REASONABLENESS OF THE GAS RATES OF SAN JOAQUIN LIGHT AND POWER CORPORATION, IN THE CITIES OF SELMA AND MERCED.

Case No. 1803.

Decided February 24, 1925.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

WHEREAS, in Decision No. 11092 (22 C. R. C., 383), in the above entitled matter, this Commission provided with reference to schedules "A" and "C" of San Joaquin Light and Power Corporation that such rates would be subject to decrease upon approval of the Railroad Commission on the basis of 3 cents per thousand cubic feet for each 10 cents decrease in the cost of oil below the price of \$1.97 per barrel f.o.b. Selma and \$2 per barrel f.o.b. Merced; and

WHEREAS, the San Joaquin Light and Power Corporation now makes affidavit that on February 4, 1925, the price paid for oil was increased by 25 cents per barrel to \$1.92 per barrel f.o.b. Selma and \$1.95 f.o.b. Merced;

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to increase the rates designated as schedules "A" and "C" as determined in Decision No. 11092, effective for all regular meter readings taken on and after March 4, 1925, so that said rates shall be one cent per thousand less than the basic rate set forth in Decision No. 11092 on Case No. 1803.

It is hereby further ordered, that San Joaquin Light and Power Corporation, in case it elects to exercise this privilege, file with the Commission on or before March 1, 1925, revisions of its schedules as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

SAN JOAQUIN LIGHT AND POWER CORPORATION.

SCHEDULE A.

		Basic			New Schedule
First	500 cubic feet or less	\$1 20	First	500 or less	\$1 20
Next	2,500 cubic feet or less	2 00		600	1 39
	5,000 cubic feet or less	1 70		2,400	1 99
	7,000 cubic feet or less	1 55		5,000	1 69
Over	15,000 cubic feet or less	1 35		7,000	1 54
				15,000	1 34

SCHEDULE C.

		Basic			New Schedule
First	20,000 cubic feet	\$1 40			\$1 39
All over	20,000	1 20			1 19
Minimum \$25 per month.					

DECISION No. 14595.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON
ITS OWN MOTION INTO THE REASONABLENESS OF THE GAS
RATES OF RIVERBEND GAS AND WATER COMPANY.

Case No. 1806.

Decided February 24, 1925.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

WHEREAS, in Decision No. 11095 (22 C.R.C. 391), in the above entitled matter, this Commission provided with reference to schedule "A" of Riverbend Gas and Water Company that such rate would be subject to decrease upon approval of the Railroad Commission on the basis of three (3) cents per thousand cubic feet for each ten (10) cents decrease in the price of oil below the price of \$1.65 per barrel f.o.b. Dinuba; and

WHEREAS, subsequent to the above mentioned decision, Riverbend Gas and Water Company has filed with the Commission its schedule "B" applicable to restaurant service, and said schedule "B" is subject to the same conditions as applying to schedule "A"; and

WHEREAS, Riverbend Gas and Water Company now makes affidavit that on February 4, 1925, the price of oil was increased to \$1.80 per barrel, which is fifteen (15) cents more than the base price upon which rates were established in Decision No. 11095 on Case No. 1806;

It is hereby ordered, that Riverbend Gas and Water Company be and it is authorized to increase its rates, designated as schedules "A" and "B" as determined in Decision No. 11095, effective for all regular meter readings taken on and after March 4, 1925, so that said rates shall be equal to the basic rates on file with the Commission as established in said Decision No. 11095.

It is hereby further ordered, that Riverbend Gas and Water Company, in case it elects to exercise this privilege, file with the Commission on or before March 1, 1925, revisions of its schedules as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14596.

IN THE MATTER OF THE APPLICATION OF UNION TRACTION COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING SAID COMPANY TO ABANDON CERTAIN OF ITS STREET RAILWAY FRANCHISES IN THE CITY OF SANTA CRUZ, PURSUANT TO WHICH TRANSPORTATION IS FURNISHED TO AND FROM CLIFF DRIVE, TO REMOVE CERTAIN PORTIONS OF ITS TRACKS AND FACILITIES OPERATED THEREUNDER, TO DISCONTINUE FUR-

NISHING STREET RAILWAY SERVICE HERETOFORE FURNISHED
PURSUANT THERETO.

Application No. 10572.

Decided February 24, 1925.

Leo H. Susman, for Applicant.*J. B. Maher*, Mayor, for City of Santa Cruz, Protestant.*Mrs. E. B. Lawrence*, for Garfield Park Parent-Teachers Club, Protestant.*Mrs. L. L. Rankin*, for Garfield Park Improvement Club, Protestant.

BY THE COMMISSION.

OPINION.

Union Traction Company, a corporation, has petitioned the Railroad Commission for an order authorizing the discontinuance of street railway service, abandonment and removal of tracks and appurtenances on a portion of its street railway system in the city of Santa Cruz.

A public hearing on this application was conducted by Examiner Handford at Santa Cruz at which time the matter was duly submitted and it is now ready for decision.

The portion of the system of the applicant herein proposed to be discontinued is the street railway line in the city of Santa Cruz extending from the intersection of Pacific avenue and Mission street, thence along Mission street, Younglove avenue, Errett circle, Woodrow avenue (formerly Garfield avenue) to Cliff drive.

Applicant alleges that the operation of the line herein proposed to be abandoned is unprofitable in that it does not develop revenue sufficient to meet the expense of operation, taxes and depreciation, or to return any interest on the investment; that the traffic on all its lines including that herein proposed to be abandoned, is steadily decreasing largely due to the increasing use of privately owned automobiles and to such extent that during the summer months, which should be the period of larger earnings by reason of the transient population in Santa Cruz—a well known resort—the decrease in earnings as compared with former years is particularly noticeable, and that applicant anticipates such situation will in future become more acute and the future revenues will continue to fall below the amount necessary for the proper operation and safe maintenance of the lines, including amounts necessary for the payment of taxes and a proper depreciation reserve. Applicant proposes, if this application be granted, to install an automobile bus service in lieu of the street railway service over the line herein sought to be abandoned.

Witnesses for applicant testified as to the financial results arising from operation and as to the expenditures necessary to place the tracks and roadbed in proper operative condition. It appears that complete rehabilitation of the tracks herein proposed to be abandoned will be necessary within the next two years and that the estimated expenditure

to be incurred for such work amounts to approximately \$90,000. The city of Santa Cruz has a street improvement program which contemplates the paving of Mission street from Pacific avenue to Bay street. It is estimated by applicant that the expense of track reconstruction to meet the paving program would amount to \$85,200. The portion of the line over which paving is contemplated constitutes about half of the distance over which abandonment is requested and if the paving program is consummated by the city of Santa Cruz the applicant will be required to expend approximately \$130,200 for track renewal and rehabilitation within the next two years.

Statements presented as exhibits by the applicant show the following data for the year ending December 31, 1924.

	Total all lines	Ocean Cliff Lines Total	Mission St. only	Seabright-Capitola Laveage lines
Earnings :				
From transportation-----	\$67,588	\$37,776	\$11,300	\$29,812
From advertising -----	600	310	196	290
Totals -----	\$68,188	\$38,086	\$11,496	\$30,102
Operating expenses----- (including depreciation and taxes)	90,819	39,822	21,225	50,997
Net loss-----	\$22,631	\$1,736	\$9,729	\$20,895

The granting of the application is protested by the city of Santa Cruz on the basis that the city desires to improve certain streets by paving, especially Mission street and later Pacific avenue. The electors of the city of Santa Cruz have voted to relieve the applicant of the franchise obligation regarding the paving between the tracks and for two feet on each side thereof. There is some question as to whether the relief presumed to be accorded by the vote of the citizens is actually effective as the city of Santa Cruz has not been able to secure the assurance of any paving contractor that a bid would be submitted on work were such bids to be invited by resolution or ordinance. It is the view of the mayor of the city of Santa Cruz that the applicant should entirely surrender all its franchises, not only on the line herein sought to be abandoned but also on Pacific avenue, thus placing the city in a position permitting it to outline and proceed with a definite program of street improvement of which the proposed paving is a part. The Commission can not in this proceeding consider issues which are beyond those now before it in this application and some of the controversies presented and arising from the interpretation of the effect of the election in which the electors of the city of Santa Cruz voted to relieve the applicant of the obligation to pave streets as contained in the franchises may require court adjudication if a satisfactory settlement can not be arrived at by direct negotiation. It is clearly shown, however, from the testimony

and exhibits herein that the portion of the applicant's system for which abandonment is requested is not returning revenue from its operation sufficient to meet the cost of operation and maintenance, taxes and depreciation, nor any interest on the investment. There is no evidence indicating that the traffic will increase, and it appears that very substantial expenditures will be required to care for the rehabilitation of the line within the next two years and whether paving is or is not ordered by the city.

Applicant has proposed, should this application be granted, to place in service motor busses to be operated on regular schedules and to serve the territory heretofore served by the street railway from Pacific avenue along Mission and other streets to Cliff drive.

Some objection was made by representatives of the Garfield Park Parent-Teacher Association and the Garfield Park Improvement Club, to the substitution of motor bus service in lieu of the street car service on the basis that the safety of the cars exceeded that of the proposed busses. There is nothing in the record substantiating such conclusion and it would appear that satisfactory service could be rendered by the substitution of busses.

After full consideration of all the evidence and exhibits in this proceeding we are of the opinion and hereby find as a fact that the continued operation by the applicant of the street car service heretofore operated in the city of Santa Cruz between Pacific avenue and Mission street along Mission and other streets to Cliff drive is no longer justified by the public convenience and necessity in that the revenue derived from such operation is not sufficient to meet the costs of operation and maintenance, taxes and depreciation, or any return on the investment. We are further of the opinion that applicant should be permitted to abandon and remove its tracks and appurtenances and surrender its franchises provided, however, that in lieu of the street car service proposed to be abandoned there shall be established a motor bus service on regular schedule and satisfactory to the city council of the city of Santa Cruz.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that applicant, Union Traction Company, a corporation, be and the same hereby is authorized to discontinue operation of its street car service heretofore rendered in the city of Santa Cruz over the following described route:

Commencing at the intersection of Pacific avenue and Mission street, thence along Mission street to its intersection with Younglove avenue, thence along

Younglove avenue to its intersection with Errett circle, thence along Errett circle to its intersection with Woodrow avenue (formerly Garfield avenue), thence along Woodrow avenue to the intersection of Woodrow avenue and Cliff drive, all in the city of Santa Cruz,

and to abandon and remove its tracks and appurtenances thereto, subject to the following terms and conditions:

I. Applicant will be required to file with this Commission a certified copy of an ordinance or other appropriate authorization of the city council of the city of Santa Cruz granting relinquishment of such franchises or portion of franchises which have heretofore been granted by the city council of the city of Santa Cruz covering the line herein authorized to be abandoned.

II. Applicant will be required to file with this Commission a certified copy of an ordinance or other appropriate authorization of the city council of the city of Santa Cruz granting authority for the operation of an automobile bus line over the route heretofore served by street railway transportation, such automobile bus service to be initially established on a schedule similar to that heretofore rendered by the street railway service herein authorized to be abandoned.

This order shall become effective upon the filing by the applicant of certified copies of ordinances or other appropriate authorizations of the city council of the city of Santa Cruz as hereinabove required.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14597.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON
ITS OWN MOTION INTO THE REASONABLENESS OF THE RATES
OF MADERA GAS COMPANY.

Case No. 1805.

Decided February 24, 1925.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

WHEREAS, in Decision No. 11094 (22 C. R. C., 388), in the above entitled matter, this Commission provided with reference to schedules "A" and "B" therein established, that such rates would be subject to a decrease upon approval of the Railroad Commission on the basis of 2.9 cents per thousand cubic feet for each 10 cents decrease in the cost of oil below the price of \$1.70 per barrel; and

WHEREAS, Madera Gas Company now makes affidavit that on February 4, 1925, the price paid for oil was increased by 25 cents per barrel to \$1.85 per barrel f.o.b. Madera, which is 15 cents more than the basic price upon which rates were established in Decision No. 11094;

It is hereby ordered, that Madera Gas Company be and is hereby authorized to increase its rates designated as schedules "A" and "B," effective for all regular meter readings taken on and after March 4, 1925, so that said rates shall be equal to the basic rates as set forth in Decision No. 11094.

It is hereby further ordered, that Madera Gas Company, in case it elects to exercise this privilege, file with the Commission on or before March 1, 1925, a revision of its schedules as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14598.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER REVISING THE BASE RATE FOR GAS SERVICE AS HERETOFORE FIXED BY DECISION NUMBER 9397, CASE NUMBER 1611.

Application No. 8173.

Decided February 24, 1925.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

WHEREAS, in Decision No. 11243 (22 C. R. C. 512) in the above entitled matter, the Commission provided, with reference to schedules "A" and "B" of Coast Valleys Gas and Electric Company, that such rates would be subject to decrease on approval of the Railroad Commission on the basis of 3 cents per thousand cubic feet for each 10 cents decrease in the price of oil below the price of \$1.75 per barrel; and

WHEREAS, Coast Valleys Gas and Electric Company now makes affidavit that on February 4, 1925, the price of oil was increased by 25 cents per barrel to \$1.65 per barrel in Monterey and \$1.80 per barrel in Salinas, these prices being in Monterey 10 cents per barrel below the basic price and in Salinas 5 cents above the base price upon which rates were established in Decision No. 11243;

It is hereby ordered, that Coast Valleys Gas and Electric Company be and it is hereby authorized to increase its rates designated as schedules Nos. "A" and "B," effective for all regular meter readings taken on and after March 4, 1925, so that schedule "A" shall be 3 cents per thousand cubic feet less than the basic rate set forth in said Decision No. 11243 and schedule "B" shall be equal to the basic rate set forth in Decision No. 11243 in Application No. 8173.

It is hereby further ordered, that Coast Valleys Gas and Electric Company, in case it elects to exercise this privilege, file with the Commission on or before March 1, 1925, a revision of its schedules as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14599.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES AND
OPERATIONS OF CENTRAL COUNTIES GAS COMPANY IN THE
COMMISSION'S OWN MOTION.

Case No. 1661.

Decided February 24, 1925.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

WHEREAS, in Decision No. 9844 (20 C. R. C. 963), in the above entitled matter, this Commission provided, with reference to schedules Nos. A and B therein established, that such rates would be subject to increase or decrease upon approval of the Railroad Commission, on the basis of 3 cents per thousand cubic feet for each 10 cents increase or decrease, respectively, in the price of oil above or below the price of \$1.76 per barrel f.o.b. Visalia; and

WHEREAS, Central Counties Gas Company now makes affidavit that on February 14, 1925, the price paid for oil was increased to \$1.7478 per barrel, which is one cent less than the base price upon which rates were established in Decision No. 9844;

It is hereby ordered, that Central Counties Gas Company be and it is authorized to increase its rates designated as schedules A and B, effective for all regular meter readings on and after March 14, 1925, so that said rates shall be equal to the basic rates set forth in Decision No. 9844 in Case No. 1661.

It is hereby further ordered, that Central Counties Gas Company, in case it elects to exercise this privilege, file with the Commission on or before March 1, 1925, a revision of its schedules as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14600.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION, ESTABLISHING RATES TO BE CHARGED BY IT FOR GAS AND ELECTRICITY.

Application No. 6078.

Decided February 24, 1925.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

WHEREAS, in Decision No. 9412 (20 C. R. C. 425), in the above entitled matter, this Commission provided, with reference to the rates

therein established, that upon approval of the Railroad Commission, schedule No. 1 would be subject to increase or decrease on the basis of 2.4 cents per 1,000 cubic feet for each 10 cents increase or decrease, respectively, in the price of oil above or below the price of \$1.75 per barrel at San Diego; and that schedule No. 3 would be subject to decrease on the basis of 3 cents per 1,000 cubic feet for each 10 cent decrease in the cost of oil below the price of \$1.65 per barrel at San Diego; and

WHEREAS, San Diego Consolidated Gas and Electric Company now makes affidavit that on February 1, 1925, the price paid for oil at San Diego was increased to \$1.45 per barrel, this being 30 cents for schedule No. 1 and 20 cents for schedule No. 3, below the base prices on which rates were established in Decision No. 9412:

It is hereby ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to increase its rates, designated as schedules No. 1 and 3, as determined in Decision No. 10948, effective for all regular meter readings taken on and after March 1, 1925, so that schedule No. 1 shall be 7 cents below the basic rate and schedule No. 3 shall be 6 cents below the basic rate, as established in Decision No. 9412.

It is hereby further ordered, that San Diego Consolidated Gas and Electric Company, in case it elects to exercise this privilege, file with the Commission, on or before March 1, 1925, a revision of its schedules as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14601.

IN THE MATTER OF THE INVESTIGATION OF GAS RATES, SERVICE
AND OPERATIONS OF COAST COUNTIES GAS AND ELECTRIC
COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1660.

Decided February 24, 1925.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

WHEREAS, in Decision No. 9840 (20 C. R. C. 952) in the above entitled matter, this Commission provided with reference to schedules Nos. 1, 2 and 5 of the Coast Counties Gas and Electric Company that such rates would be subject to increase or decrease, upon approval of the Railroad Commission, on the basis of 3 cents per thousand cubic feet for each 10 cents increase or decrease, respectively, in the price of oil above or

below the price of \$1.65 per barrel in Santa Cruz and \$1.73 per barrel in Watsonville; and

WHEREAS, in Decision No. 9725 (20 C. R. C. 810) this Commission provided with reference to schedules Nos. 1 and 3 therein established for Contra Costa Gas Company, that such rates would be subject to increase or decrease upon approval of the Railroad Commission, on the basis of 3 cents per thousand cubic feet for each 10 cents increase or decrease, respectively, in the price of oil above or below the price of \$1.64 per barrel f.o.b. Pittsburg; and

WHEREAS, Contra Costa Gas Company has been purchased by Coast Counties Gas and Electric Company and schedules Nos. 1 and 3 of Contra Costa Gas Company are now known as schedules Nos. 7 and 9 of Coast Counties Gas and Electric Company; and

WHEREAS, Coast Counties Gas and Electric Company now makes affidavit that on February 4, 1925, the price paid for oil was increased by 25 cents per barrel to \$1.80 per barrel in Santa Cruz, \$1.88 per barrel in Watsonville and \$1.71 per barrel in Pittsburg, which is 15 cents more than the base price upon which rates were established in Decision No. 9840 for Santa Cruz and Watsonville and 7 cents more than the base price upon which rates were established in Decision No. 9725 for Pittsburg;

It is hereby ordered, that Coast Counties Gas and Electric Company be and it is authorized to increase the rates designated as schedules Nos. 1, 2 and 5, effective for all regular meter readings taken on and after March 4, 1925, so that said rates shall be 4 cents per thousand cubic feet more than the base rates set forth in Decision No. 9840, and to increase the rates designated as schedules Nos. 7 and 9, effective for all regular meter readings taken on and after March 4, 1925, so that said rates shall be 2 cents per thousand more than the basic rates set forth in Decision No. 9725.

It is hereby further ordered, that Coast Counties Gas and Electric Company, in case it elects to exercise this privilege, file with this Commission on or before March 1, 1925, a revision of its schedules as herein authorized.

Dated at San Francisco, California, this twenty-fourth day of February, 1925.

DECISION No. 14604.

IN THE MATTER OF THE APPLICATION OF DAVIES WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE LEASEHOLD SEVEN PER CENT SINKING FUND GOLD BONDS TO THE VALUE OF ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS: NOTES PAYABLE ON OR BEFORE FEBRUARY 1, 1928, NOT TO EXCEED A TOTAL OF THIRTY-FIVE THOUSAND DOLLARS; SEVEN PER CENT CUMULATIVE PREFERRED STOCK TO THE FACE VALUE OF FIFTY THOUSAND

DOLLARS; AND COMMON STOCK TO THE FACE VALUE OF THIRTY THOUSAND DOLLARS.

Application No. 10767.

Decided February 26, 1925.

R. M. Farrar, for Applicant.

BY THE COMMISSION.

OPINION.

Davies Warehouse Company asks permission to issue and sell at 90 per cent of their face value and accrued interest \$175,000 of 7 per cent 10-year bonds and \$35,000 of notes due February 1, 1928. The company also asks permission to issue and sell at not less than 90, \$50,000 of 7 per cent cumulative preferred stock and \$30,000 of common stock. The company further asks permission to use the proceeds obtained from the sale of its bonds, notes and stock to pay the cost of constructing a new four-story class "A" concrete warehouse building, rebuild its existing warehouse structures, equip the same and pay indebtedness to which reference will be made hereafter.

Davies Warehouse Company was organized on or about April 24, 1902, and has an authorized capital stock of \$50,000 divided into 500 shares of the par value of \$100 each. Stock in the amount of \$40,000 has been issued and is now outstanding. Reports filed with the Commission show that Charles T. B. Jones, president of the company, owns \$32,400 of the outstanding stock.

The testimony shows that applicant, during the past several years, because of inadequate warehouse space and facilities, has not been able to store all the commodities offered. Moreover, none of applicant's present warehouse buildings are of fireproof construction. These buildings are located on Central avenue between First and Second streets, and have a floor space of from 80,000 to 85,000 square feet. Applicant intends to erect on Lot No. 7, to replace its present Warehouse No. 1, a four-story class "A" concrete warehouse building, with a floor space of about 133,000 square feet. This building will have a frontage of 165 feet 6 inches on Central avenue and a depth of 134 feet. The building will be of fireproof construction throughout, which should result in a very material reduction in applicant's insurance rates. The cost of the new building is estimated at \$175,000. In addition, applicant intends to expend \$10,000 to reconstruct its Warehouse No. 2, expend \$10,000 for warehouse equipment, pay \$23,000 of indebtedness, provide itself with \$10,500 of working capital and pay \$3,000 of expenses incidental to the issue of bonds.

Applicant's buildings are located on property leased for a term of 99 years from and after July 1, 1923. The lease requires the company to pay during the first 10 years a rental of \$1,000 per month; and

during the remaining life of the lease, a rental of \$1,250 per month. Applicant has filed in Application No. 10526 as its Exhibit No. 6, a copy of the lease which shows that it has subleased to Haas, Baruch & Company, part of the property covered by its lease of July 1, 1923. Haas, Baruch & Company agree to pay an annual rental of \$750 per month for a term of seven years seven months from and after June 1, 1924, and have the right to extend their lease for a term of ten, fifteen, twenty-five or forty years from and after December 31, 1931, at a monthly rental of \$1,000.

The testimony shows that the appraisal committee of Los Angeles Realty Board estimates the value of applicant's leasehold interests and warehouse buildings, when completed, at \$307,999. The company has submitted a statement in which it estimates its annual income after the construction of its new warehouse and the remodeling of its existing warehouse buildings at a minimum of \$113,592. It estimates its operating expenses at \$50,452 and its interest charges, sinking fund, taxes, insurance, and amortization of bond discount and expense at \$34,750, making a total annual charge of \$85,202, leaving net profits estimated at \$28,390. For 1924 the company reports operating revenues of \$60,341.39 and operating expenses of \$53,793.27, leaving net operating revenues of \$6,548.12.

Applicant asks permission to issue \$175,000 of 10-year 7 per cent bonds which will be a first lien on all of its properties. It has not filed with the Commission a copy of its proposed mortgage or deed of trust to secure the payment of the bonds. The order herein will provide that the authority to issue, sell and deliver bonds will not become effective until the Commission by supplemental order has authorized the company to execute a mortgage or deed of trust to secure the payment of the bonds, nor until the company has paid the fee prescribed by Section 57 of the Public Utilities Act.

The company also asks permission to issue \$35,000 of second mortgage 7 per cent notes due February 1, 1928, \$50,000 of 7 per cent preferred stock and \$30,000 of common stock. The record in this proceeding shows that applicant is a creditor of its principal stockholders. We are of the opinion that applicant should forthwith collect the amount due from its stockholders. Until this is done we will not authorize the issue of either notes or stock. As soon as the Commission is advised that the amount due from stockholders has been collected, the Commission will give further consideration to the issue of notes and stock.

In Application No. 10526 on which a hearing was had on October 24, 1924, applicant asked permission to issue \$150,000 of bonds and \$25,000 of notes. This request was superseded by the application now under

consideration. It was stipulated that the Commission might consider, in the matter now before it, the evidence and record in Application No. 10526.

ORDER.

Davies Warehouse Company, having applied to the Railroad Commission for permission to issue bonds, notes and stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission having considered the request of the company and being of the opinion that the company should be authorized to issue the \$175,000 of bonds and that the authority to issue notes and stock should be held in abeyance, and that the money, property or labor to be procured or paid for through the issue of the bonds is reasonably required by applicant, and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income:

It is hereby ordered, as follows:

1. Davis Warehouse Company, upon being authorized by the Railroad Commission to execute a mortgage or deed of trust, to secure the payment of \$175,000 of 10-year 7 per cent bonds, and upon having paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$175, may issue, sell and deliver on or before August 1, 1925, at not less than 90 and accrued interest, \$175,000 of 10-year 7 per cent bonds and use the proceeds to pay in part the cost of constructing a new warehouse and the cost of remodeling its existing warehouses and equipping said warehouses, referred to in this application.

2. Davies Warehouse Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-sixth day of February, 1925.

DECISION No. 14605.

IN THE MATTER OF THE APPLICATION OF MOJAVE NORTHERN RAILROAD COMPANY FOR AN ORDER PERMITTING IT TO ABANDON ITS COMMON CARRIER OBLIGATIONS, AND TO SELL ALL OF ITS PROPERTY TO SOUTHWESTERN PORTLAND CEMENT COMPANY.

Application No. 10761.

Decided February 26, 1925.

F. R. McNamee, for Applicant.

SQUIRES, Commissioner.

OPINION.

The Railroad Commission is asked to make an order authorizing the Mojave Northern Railroad Company to abandon its obligations as common carrier and to sell its properties to the Southwestern Portland Cement Company.

It is of record that during 1915 the Southwestern Portland Cement Company acquired large deposits of lime rock located about six miles northeasterly from Victorville and constructed a plant for the manufacture of Portland Cement, at a point on the Santa Fe Railroad about one mile north of Victorville in San Bernardino County. In order to provide a means of transporting its lime rock from its quarries to its plant it became necessary to acquire rights of way and build a railroad for such purpose. The cement company caused the Mojave Northern Railroad Company to be organized and acquire 495 shares out of a total of 500 shares of stock. The remaining five shares are held by directors. Since 1916 the Mojave Northern Railroad Company has been, and is now, engaged in the business of a common carrier by railroad, operating a standard gauge steam railroad from a point in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 4, T. 5 N., R. 4 W., S.B.M., on the Santa Fe Railroad near Victorville, called "Leon", in a northeasterly direction, to the lime quarries of Southwestern Portland Cement Company, at its station called "Powell" in Sec. 11, T. 6 N., R. 4 W., S.B.M., a distance of approximately seven (7) miles, in the county of San Bernardino, State of California.

The testimony shows that the business of the railroad, both freight and passenger, other than the carrying of about three tons of mining supplies during the year of 1918, has been solely that of carrying lime rock, supplies and employees of the Southwestern Portland Cement Company. The person for whom the mining supplies were carried in 1918 has since sold his properties to the cement company. The testimony also shows that the territory traversed by the railroad is unsettled, a barren desert tract with no agricultural possibilities, and with no present or prospective tonnage of minerals, lime or clay products other than what is owned and controlled by the Southwestern Portland Cement Company.

All of the property of the Mojave Northern Railroad Company is managed and operated through officials and directors of the Southwestern Portland Cement Company. Upon the granting of this application the railroad will be operated as a plant facility. It is believed that under such operation the cost of operating the railroad can be materially reduced for the reason that it will not be necessary to keep separate accounts, reports, books and tariffs, etc.

As said, the Commission is asked to make an order authorizing the abandonment by the Mojave Northern Railroad Company of its obligations as a common carrier and further authorizing the company to sell all of its property to the Southwestern Portland Cement Company. After a consideration of the evidence, I find no necessity for requiring applicant to continue operations as a common carrier and am of the opinion that the company's request to abandon its obligations as a common carrier should be granted and that it should be permitted to discontinue permanently its service as a common carrier. The Commission has heretofore held, and is now of the opinion, that when it authorizes a railroad company to discontinue operations and to abandon its common carrier obligations, the disposition of the company's properties thereafter is not a matter which falls within the jurisdiction of the Railroad Commission. (Volume 16, Opinions and Orders of the Railroad Commission of California, page 399.) Therefore, such portion of this application as relates to the sale of the property of the Mojave Northern Railroad Company will be dismissed.

I herewith submit the following form of order:

ORDER.

Mojave Northern Railroad Company having applied to the Railroad Commission for an order authorizing it to discontinue its railway service and to abandon its obligations as a common carrier and sell its properties, a public hearing having been held, and the matter having been submitted and the Commission being fully advised and basing its order on the finding of facts as set forth in the preceding opinion;

It is hereby ordered, that the Mojave Northern Railroad Company be and it is hereby permitted to abandon its obligations as a common carrier and to discontinue permanently its service as a common carrier from, and after, the date hereof.

It is hereby further ordered, that for the reason appearing in the foregoing opinion, that portion of the application requesting permission to sell and transfer properties be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-sixth day of February, 1925.

DECISION No. 14606.

IN THE MATTER OF THE APPLICATION OF H. M. TOLSON TO TRANSFER ALL HIS RIGHT, TITLE AND INTEREST, INCLUDING EQUIPMENT, IN SEAL BEACH AUTO DISPATCH, OPERATING BETWEEN

LOS ANGELES AND SEAL BEACH AND INTERMEDIATE POINTS, AND TORRANCE TRANSFER COMPANY OPERATING BETWEEN LOS ANGELES AND TORRANCE, TO TOLSON TRANSPORTATION SYSTEM, INC., ALSO APPLICATION OF TOLSON TRANSPORTATION SYSTEM, INC., FOR AN ORDER GRANTING PERMISSION TO TAKE OVER AND OPERATE ABOVE NAMED AUTO TRUCK TRANSPORTATION LINES, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING EXTENSION OF ITS SERVICE FROM TORRANCE TO LOS ANGELES HARBOR DISTRICT.

Application No. 10286.
Decided February 26, 1925.

Perry G. Briney, for Applicant.

BY THE COMMISSION.

OPINION.

H. M. Tolson, operating under the title of Seal Beach Auto Dispatch between Los Angeles and Seal Beach and certain intermediate points, and also operating as Torrance Transfer Company between Los Angeles and Torrance, has made application to the Railroad Commission for authority to transfer both operations, of which he is the sole owner, to Tolson Transportation System, Inc. Applicant also, in the same application, asks for a certificate of public convenience and necessity authorizing extension of service between Torrance and the Los Angeles harbor district.

A public hearing herein was conducted by Examiner Williams at Los Angeles.

H. M. Tolson is operating the Seal Beach Auto Dispatch under the authority granted by the Commission's order in Application No. 9350, and the Torrance Transfer line under authority granted by the Commission in Application No. 4591.

Applicant Tolson Transportation System, Inc., has a capital of \$25,000, divided into 250 shares of the par value of \$100 each. Four shares have already been issued to directors of the company. It is proposed to take over all the equipment of applicant Tolson and to issue and sell at par, stock to the value of \$24,600 in part payment therefor. Applicants in their Exhibit "B" report the assets and liabilities of H. M. Tolson as of June 30, 1924, as follows:

<i>Assets.</i>	
Notes receivable	\$9,876 00
Accounts receivable	11,278 25
Plant and garage equipment	350 00
Trucks (appraisal)	42,600 00
Trailers	8,400 00
Furniture and fixtures	1,150 00
Stocks and bonds	1,000 00
Touring car (H. M. T. Stude)	1,250 00
Real estate	13,000 00
Good will	10,000 00

Cash on hand -----	\$12 32
Cash in bank -----	814 03
Total assets -----	\$99,730 60
<i>Liabilities.</i>	
Truck, trailer and car contracts -----	\$13,615 41
Notes payable -----	4,500 00
Accounts payable -----	8,132 78
Real estate and mortgage contracts -----	3,324 25
Surplus -----	70,158 16
Total liabilities -----	\$99,730 60

The equipment to be acquired by the Tolson Transportation System, Inc., includes one 5-ton truck, seven 2½-ton trucks, four 3½-ton trucks, two 1-ton trucks and one 2-ton truck, seven trailers and a touring car. It is of record that Exhibit "B" contains several items of property which will not be transferred to the corporation or which can not by the Commission be recognized as a basis for the issue of stock. It further appears that the exhibit contains \$3,324.25 due on real estate and mortgage contracts applicable to property owned by Tolson which will not be transferred to the corporation. The assets which will not be transferred consist of \$13,000 of real estate and a \$7,500 note. In addition, it contains an item of \$10,000 for good will, which the record does not justify the Commission to include among the assets of the corporation. Deducting the three items to which reference has been made leaves net assets of \$69,230.60, and deducting the amount reported under real estate and mortgage contracts, namely \$3,324.25, from the liabilities leaves net liabilities of \$26,248.19, which will be assumed by the corporation. In payment for the foregoing properties, the corporation asks permission to issue \$24,600 of stock and assume the liabilities mentioned.

Applicant testified that the gross business of his two truck lines approximates \$10,000 per month.

As to the extension of operations between Torrance and Los Angeles, applicant testified that he had many demands for transportation of large quantities of material between the two points, a distance of 12 miles. Thomas M. Davidson, vice president of the American System of Reinforcing, and Earle M. Jorgenson, manager of Jorgenson Company, steel jobbers, testified that an average of 200 tons a month moved between the two points in their business alone.

The application was not opposed. Applicant proposes a demand service only, not upon schedule, and by permission amended his schedule of rates shown in Exhibit "A" of the application to eliminate the minimum charge of 50 cents, and also a charge on baggage, suit cases, trunks, or boxes filled with personal effects, and drummers' samples,

leaving the service, by further stipulation, confined to quantities of one ton or more, to be carried at the rates shown in Exhibit "A".

As this service is a demand service only, not operating on schedule as is the remainder of applicant's service, it can hardly be consolidated and merged with the general operation until such time as applicant is prepared to put into effect a schedule of operation, at which time further application therefor should be made to this Commission.

An order will provide for the establishment of this demand service, with the understanding that only property originating in Torrance and destined to the wharves of the steamship companies at Wilmington and San Pedro, to which applicant proposes free pick-up and delivery service, or vice versa, shall be transported, and that it is not in any sense an extension of applicant's existing operation between Los Angeles and Torrance, providing a through service to the harbor.

We therefore find as a fact, upon the record herein, that the transfer of properties from H. M. Tolson to Tolson Transportation System, Inc., should be authorized; that permission to issue \$24,600 of stock by Tolson Transportation System, Inc., and assume \$26,248.19 of indebtedness should be granted; and that public convenience and necessity require the extension of demand freight service between Torrance and Los Angeles harbor district by applicant.

ORDER.

H. M. Tolson, having applied to the Railroad Commission for permission to transfer the operative rights and properties referred to in the foregoing opinion to the Tolson Transportation System, Inc., and Tolson Transportation System, Inc., having applied to the Commission for permission to issue \$24,600 of stock and assume the payment of indebtedness and to operate the truck service referred to in this order, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of stock herein authorized is reasonably required by the Tolson Transportation System, Inc., and that this application should be granted as herein provided; therefore

It is hereby ordered, that H. M. Tolson be and he is hereby authorized to sell and transfer to the Tolson Transportation System, Inc., the operative rights granted by this Commission by its Decision in Application No. 9350 and by its Decision in Application No. 4591, and also transfer to such corporation the other properties and equipment referred to in the preceding opinion. Authority herein granted to transfer operative rights is subject to the following conditions:

1. H. M. Tolson, Seal Beach Auto Dispatch and Torrance Transfer Company shall cancel immediately all time schedules, tariffs, rates and

classifications at present on file with the Railroad Commission, and Tolson Transportation System, Inc., shall file immediately new time schedules, rates, tariffs and classifications, or adopt as its own the time schedules, tariffs, rates and classifications heretofore filed with this Commission by H. M. Tolson, Seal Beach Auto Dispatch and Torrance Transfer Company, all such new time schedules, tariffs, rates and classifications to be identical with those heretofore filed with the Commission, such cancellations and filings to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

2. The rights and privileges, the transfer of which is herein authorized, may not again be transferred, assigned, leased, sold, hypothecated, or operations thereunder discontinued unless the written consent of the Railroad Commission to such transfer, assignment, lease, sale, hypothecation or discontinuance shall have first been secured.

3. No vehicle may be operated by Tolson Transportation System, Inc., a corporation, under the authority contained in this decision unless such vehicle is owned by said company or leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. The price at which Tolson Transportation System, Inc., is herein authorized to acquire properties shall never be urged before this Commission, or other court or public body having jurisdiction, as a measure of value of said properties for the purpose of fixing rates, or for any other purpose than the transfer herein authorized.

5. The transfer of operative rights hereinabove authorized and the required cancellation and filing of tariffs and schedules shall be made not later than ninety days from the date of the order in this proceeding, unless the time for accomplishing the authorized transfers, the cancellation and filing of tariffs shall be extended by the further order of this Commission.

It is hereby further ordered, that Tolson Transportation System, Inc., be and it is hereby authorized to acquire the foregoing properties and to issue in payment therefor, at not less than par, \$24,600 of stock, and to assume the payment of not exceeding \$26,248.19 of indebtedness, such indebtedness, however, not to include \$3,324.25 reported as being due on real estate and mortgage contracts.

The authority herein granted to issue stock is subject to the following conditions:

(a) Tolson Transportation System, Inc., shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commis-

sion's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(b) The authority herein granted to issue stock will become effective upon the date hereof. No stock may be issued, sold or delivered under such authority after June 1, 1925.

(c) The authority herein granted to assume the payment of indebtedness will become effective when Tolson Transportation System, Inc., has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$27. Under the authority herein granted Tolson Transportation System, Inc., may not assume the payment of any of the aforementioned indebtedness after June 1, 1925.

Tolson Transportation System, Inc., having made application to the Railroad Commission for a certificate of public convenience and necessity to extend its freight service from Torrance to Los Angeles harbor district, a public hearing having been held, the matter having been duly submitted and now being ready for decision;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment and operation by applicant of a demand service, without schedule, between Torrance and the steamship wharves at Wilmington and San Pedro, in the harbor district of the city of Los Angeles, and to no other points, over and along the following route:

(a) Via Narbonne Avenue, through Lomita, and Wilmington-Redondo Road to the wharves at Wilmington.

(b) Via Lomita, Harbor City and San Pedro boulevard to wharves at San Pedro; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

I. Applicant shall file written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file time schedules and tariff of rates identical with those as set forth in Exhibit attached to the application herein within a period of not to exceed twenty (20) days from date hereof; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

II. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission thereto has first been secured.

III. No vehicle may be operated by applicant unless such vehicle is owned or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twenty-sixth day of February, 1925.

DECISION No. 14613.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING SALE OF REAL PROPERTY.

Application No. 10660.

Decided February 27, 1925.

McKee, Tasheira & Wahrhaftig, by *A. G. Tasheira*, for Applicant.
W. J. Locke, for East Bay Municipal Utility District.

BRUNDIGE AND DECOTO, *Commissioners*.

OPINION.

East Bay Water Company, a corporation, has applied to this Commission for authority to sell certain nonoperative real property as set out in the application herein.

A public hearing in this matter was held in San Francisco, after all interested parties had been duly notified and given an opportunity to appear and be heard.

Counsel for applicant and for the East Bay Municipal Utility District both agreed, and the evidence so indicates, that the property involved in this proceeding is neither necessary nor useful in the performance of the public utility duties of East Bay Water Company. However, in order that such existing rights as easements, rights of way, ingress and egress for maintenance and repairs, water rights to surface and underground waters, tunnel and other operating rights be fully protected and future operations and possible developments of this water system be adequately safeguarded, we believe that in any sale of this property such rights and privileges should be definitely and specifically reserved to East Bay Water Company, and the order authorizing this transfer will so provide.

The following form of order is submitted:

ORDER.

East Bay Water Company, a corporation, having applied to this Commission for authority to sell certain real property as set out in the application herein, a public hearing having been held thereon, the matter having been submitted, the Commission being now fully advised in the matter, and it appearing that said property is neither necessary

nor useful in the performance of the duties of said company as a water utility, and that the application should be granted;

It is hereby ordered, that East Bay Water Company, a corporation, be and it is hereby authorized to sell that certain real property more particularly described in the application herein, upon the following conditions:

1. That all rights and privileges now owned or controlled by East Bay Water Company and reasonably necessary to the continued operation of its water system in relation to the property herein authorized to be transferred, shall be reserved to East Bay Water Company in the instruments conveying said property.

2. That certified copies of the instruments of conveyance shall be filed with this Commission by said East Bay Water Company within thirty (30) days from the dates on which they are executed.

The authority granted in the order herein shall become effective upon the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of February, 1925.

DECISION No. 14614.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA IN RELATION TO THE CALIFORNIA HIGHWAY COMMISSION FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF CROSSING OVER THE SOUTHERN PACIFIC RAILROAD NEAR PISMO, SAN LUIS OBISPO COUNTY, CALIFORNIA.

Application No. 10782.

Decided February 27, 1925.

Paul F. Fratessa, for Applicant.

E. C. Morrison and *F. W. Mielke*, for Southern Pacific Company.

John Norton, *Asa Porter* and *Warren B. Burch*, for Board of Supervisors, San Luis Obispo County.

DECOTO, Commissioner.

OPINION.

In this application, the California Highway Commission requests an order authorizing the construction of a crossing of the state highway above the tracks of Southern Pacific Company at a point near Pismo, San Luis Obispo County, and apportioning the cost thereof.

A public hearing was held at San Luis Obispo on February 11, 1925, before Commissioner Decoto.

This highway is the main coast road between San Francisco and Los Angeles, and in its existing route crosses the main line track of

Southern Pacific Company at grade immediately north of the railroad's station building at Pismo. Both the highway and the railroad carry a relatively large amount of traffic.

Descending from the west on a sharp grade, the highway crosses the tracks at an angle of about 45 degrees; thence turns abruptly to the north following the foot of the railroad embankment for several hundred feet. The station buildings, the railroad fill, natural topography, and trees and brush along the small waterway to the north of the crossing, all combine to obscure the view and increase the hazard at this grade crossing.

As a result of a survey of all state highway crossings in California, made jointly by engineers representing the United States Bureau of Public Roads, the California Highway Commission, and the California Railroad Commission, a program of order of grade crossing elimination was recommended. The crossing herein considered was placed near the head of this list.

The Highway Commission now proposes the construction of a new section of road as shown on applicant's Exhibit No. 1, which will shorten the highway and substantially improve its alignment and grade. By raising the grade by means of additional embankment and constructing a concrete bridge over the track, the hazardous grade crossing can be done away with. The total cost of this improvement is estimated at approximately \$140,000, of which amount it is estimated that some \$50,000 is required for the construction of the overhead crossing.

For the purpose of determining the basis on which a division of cost between the applicant and the railroad company can be made, a so-called "theoretical crossing over the railroad" has been agreed upon between the parties. This theoretical crossing is shown on applicant's Exhibit No. 1, except that the clearance over the track is to be 25 feet instead of 23 feet, as indicated on the exhibit, and is briefly described as the difference between constructing the relocated highway over the tracks at grade and carrying it over the railroad on a bridge having 5 per cent grades of approach. It is agreed that the railroad company shall pay one-half the cost of this theoretical crossing, but, as the applicant has elected to improve the grade line of the highway by increasing the amount of the embankment, and neither the crossing of the tracks at grade nor the 5 per cent grade line will be constructed, the actual cost of this theoretical structure will not be known. The amount which the railroad company shall contribute towards the project will therefore be determined by a supplemental order in this proceeding, based on the principle of an equal division of the estimated

cost of the theoretical crossing; such estimated cost to be agreed upon, if possible, by the interested parties and filed as applicant's Exhibit No. 3.

In order to improve its operating conditions, the railroad company declared its intention to raise its track at the point of crossing approximately three feet. To permit this future raising of the track without violation of the Commission's orders regarding clearances, the Highway Commission has agreed to construct the overhead bridge so as to provide a minimum clearance of 25 feet above the present tops of rails.

The following stipulations were made by the parties at the hearing in this proceeding:

1. That public necessity requires the elimination of the existing grade crossing.

2. That the railroad bear one-half the cost of the theoretical overhead crossing as herein before more fully described, provided the present grade crossing be abolished, and provided 25 feet clearance be given above the present top of rails of Southern Pacific Company track. This stipulation covers the increased cost caused by increasing the clearance from 23 feet to 25 feet.

3. That an exhibit showing the estimated cost of the theoretical grade crossing as worked out by agreement between the parties and marked applicant's Exhibit No. 3, be later filed with the Commission and used as the basis of the final apportionment of cost to be determined by a supplemental order in this proceeding.

The county of San Luis Obispo made serious objection to the closing of the present grade crossing; it being contended that to close same would inconvenience certain residents and property owners east of the track and would also hinder the people of Arroyo Grande in reaching the Southern Pacific station and freight platform at Pismo. The evidence shows that there are but three property owners and one actual resident who would be inconvenienced in reaching the state highway and the town of Pismo by closing the crossing. It is also shown that the distance from Arroyo Grande to Oceano, a station on the railroad three miles south of Pismo, is approximately the same as from Arroyo Grande to Pismo; that the former is over a level road, while the latter has numerous grades and curves; that both roads are paved and that the freight facilities at Oceano are superior to those at Pismo. It appears, therefore, that the public convenience and necessity for the existing grade crossing does not warrant the continuance of such a hazard and menace to public safety and that the crossing should be closed.

The following form of order is recommended:

ORDER.

People of the State of California on relation of the California Highway Commission, having made application for an order authorizing the construction of a crossing above the tracks of the Southern Pacific Company at Pismo, San Luis Obispo County, and apportioning the cost thereof, a public hearing having been held, the matter having been submitted and now ready for decision;

It is hereby ordered, that the people of the State of California on relation of the California Highway Commission be and they are hereby authorized to construct a crossing over the tracks of Southern Pacific Company at Pismo, San Luis Obispo County, as hereinafter specified, subject to the following conditions:

(1) Said crossing shall be constructed at a location approximately 750 feet south of the existing grade crossing of the county road, said point of crossing to be approximately at engineer's station 9520+54.5 on the railroad.

(2) Said crossing shall be constructed substantially in accordance with the plan filed by applicant as Exhibit No. 2 in this proceeding, excepting that the minimum overhead clearance above the present top of rail shall be 25 feet. Said crossing shall be more specifically constructed in accordance with detail plans which shall hereafter be submitted to and approved by this Commission.

(3) The apportionment of the cost of constructing and maintaining said crossing shall be determined by a supplemental order to be hereafter made in this proceeding.

(4) Applicant shall within thirty (30) days thereafter notify this Commission in writing of the completion of the installation of said crossing.

(5) If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

It is hereby further ordered, that upon the completion of the overhead crossing over the railroad track and the connecting roadways and the opening of the relocated route to public use and travel, Southern Pacific Company at its own expense shall abolish the present grade

crossing located at approximately engineer's station 9513+00, and effectively close same to public use and travel.

For all other purposes this order shall become effective twenty (20) days from the making thereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of February, 1925.

DECISION No. 14616.

IN THE MATTER OF THE APPLICATION OF STOCKTON ELECTRIC RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE EXERCISE OF FRANCHISE GRANTED BY ORDINANCE No. 908 OF THE CITY OF STOCKTON.

Application No. 10709.

Decided February 28, 1925.

CERTIFICATE—ELECTRIC RAILWAY—FRANCHISE PROVISIONS.—Attempts by the city of Stockton to fix a rate base and minimum rate of return in the conditions of the franchise merely express the attitude of the present officials of the city, and are not binding upon the Railroad Commission, which has the sole jurisdiction in the fixing of rates.

E. J. Foulds and Arthur L. Levinsky, for Applicant.

Charles A. Ashburner and J. LeRoy Johnson, for the City of Stockton.

SEAVEY, Commissioner.

OPINION.

In this application, the Stockton Electric Railroad Company, a corporation, asks for a certificate of public convenience and necessity for the exercise of franchise granted by Ordinance No. 908 of the city of Stockton on November 3, 1924.

A public hearing was held on this matter in Stockton on February 16, 1925.

The franchise under consideration provides for an extension of applicant's East Main street electric railroad from Wilson way easterly along East Main street to the city limits, a distance of approximately 5750 feet. This extension is for the purpose of serving a growing residential district, having an estimated population of approximately 5500 inhabitants, of which about 500 are outside of the city limits but within a third of a mile of the terminus of the proposed extension. Applicant proposes to operate cars on a ten-minute headway during the day and late evening, with an increase to a six-minute headway during morning and evening peaks. Construction proposed is a double track standard gauge railroad, with a tee rail weighing 75

pounds to the yard, and with the usual overhead trolley suspension. Car equipment similar to that now in use on applicant's system will be operated.

The territory which will be served by the proposed extension is at the present time served by automobile busses. Applicant operates its bus from Wilson way easterly along East Main street to a point about 1000 feet east of the city limits, headway being 20 minutes during nonrush hours and ten minutes during peak hours. Witness for applicant testified that their bus line is being operated beyond the city limits a short distance merely as an operating convenience, and it is not their intention to give service at this time beyond the city line. No additional fare is charged on applicant's busses, a transfer to any point on the street car system being included, and no change in this fare is contemplated when the busses are replaced by street cars.

In addition to applicant's bus line, competitive service into the district is rendered by privately owned automobiles, operating along East Main street from Hunter street to the easterly city limits. These competing lines maintain no fixed headway but operate only when considerable traffic presents itself. Under the provisions of the franchise under consideration, private bus competition will be eliminated over the route of the proposed extension when the street car service is placed in operation.

Applicant submitted the following estimate of cost of construction, revenue to be derived and cost of operation:

Estimated Cost of Constructing 5750 Feet Double Track, an Extension to Main Street Lines, Stockton, Covered by Franchise Ordinance No. 908.

Acct. No.	Unit	Quantity	Character of work	Total		
				Labor	Material	Total
504	Sq. ft.	115,000	Grading.....	\$0.05		\$5,750.00
505	Tons	3,200	Ballast.....		\$1.50	4,800.00
506	Ea.	6,270	Rwd. ties 6"x8"x8'.....		1.22	7,649.40
507	Tons	255	Rail 75 lb. T.....		78.00	19,890.00
507	Prs.	700	Joint continuous.....		3.37	2,359.00
507	Lbs.	3,300	Bolts 7/8"x 4 track.....		.05	165.00
507	Ea.	2,900	Washers h. p. lock 7/8.....		.035	101.50
507	Pr.	2	Joints compromises 75 to 114.....		10.00	20.00
507	Ea.	12,540	Plate ties.....		.24	3,009.60
507	Lbs.	14,800	Spikes track 9/16 x 5 1/2.....		.04	592.00
508	Ea.	2	Crossings, manganese.....		650.00	1,300.00
508	Ea.	1	Turnout diamond.....			750.00
510	Ft.	11,500	Laying, ballasting and surfacing track.....	1.00		11,500.00
511	Cu. yds.	575	Concrete foundation in conjunction with city paving.....		7.00	4,025.00
519	Ea.	106	Poles, cedar 35'.....		20.50	2,173.00
519	Ea.	106	Labor, digging and setting poles.....	4.05		429.30
519	Ea.	4	Anchor rods 7/8 x 8.....		1.09	4.36
519	Ea.	4	Anchor blocks.....		2.40	9.60
519	Ea.	8	Guy thimbles 5/16.....		.05	.40
519	Ea.	8	Guy clamps 3 bolt.....		.26	2.08
519	Ea.	8	Shins pole galv. iron.....		.10	.80
521	Lbs.	4,650	Wire 2/0 trolley.....		.21	376.50
521	Ft.	500	Span wire 1/4".....		.016	8.00
521	Ft.	4,500	Span wire 5/16".....		.0193	86.85
521	Ea.	4	Ear splicing.....		1.60	6.40
521	Ea.	112	Ear 15" clinch.....		.563	63.05
521	Ea.	116	Caps and cones.....		.67	77.72
521	Ea.	104	Suspension straight line.....		.637	38.48
521	Ea.	6	Suspension single curve.....		.75	4.50
521	Ea.	6	Suspension double curve.....		.84	5.04
521	Ea.	2	Crossovers, insulated 1200 volt.....		17.40	34.80
521	Ea.	116	Washers, lock.....		.05	5.80
521	Ea.	160	Porcelain insulators.....		.24	38.40
521	Ea.	104	Eye bolts.....		.25	26.00
521	Ea.	700	Bonds 4/0 copper.....		.35	245.00
521	Lbs.	25	Brazing brass.....		.25	6.25
521	Lbs.	10	Borax flux.....		.10	1.00
521	Ea.	18	Carbons.....		.60	10.80
521	Ea.	2	Electrode clamps.....		5.13	10.26
			Bonding labor.....			300.00
			Labor installing overhead.....			750.00
						\$67,225.89
			10% superintendence, tools, etc.....			6,722.58
						\$73,948.47

Estimate of earnings are based on earnings of our busses, plus earnings of private busses now operating, plus increase brought by regular street car service.

Our busses now earning per month.....	\$750 00
Private busses now earning per month.....	650 00
Increase from regular car service estimated.....	200 00
Total per month.....	\$1,600 00

Estimate of expense based on year 1923, including railway operating expenses, depreciation and taxes. The whole amount divided by total car mileage for year to obtain expense factor of 20 cents per car mile. Operation by street cars will call for 5500 car miles per month and 66,000 per year.

Summary of foregoing:

Investment \$74,000 at 8%.....	\$5,020 00
Earnings \$1,600 per month and.....	\$19,000 00 per yr.
Expenses, 66,000 car miles per year at 20 cents.....	13,200 00
Revenue from railway operation.....	5,800 00
Loss per year on 8% basis.....	\$120 00

Testimony of applicant's witness indicates that its present bus line is operating at a loss of approximately \$2,700 annually. As this loss will be eliminated by the installation of the street car service, net earnings of the system will also be benefited to that extent. It appears, therefore, that the extension is economically justified.

Testimony of the city manager was to the effect that increased transportation service is vital to the proper development of Stockton. The future development of the manufacturing district requires an adequate transportation system between the newer residential districts and the manufacturing district. Schools should be served by efficient transportation facilities.

This extension is one step in the furtherance of an adequate transportation system for Stockton. Applicant's general manager stated that the company had undertaken to serve this community with adequate transportation, and that it intended to extend its facilities wherever and whenever it appears that growth of the city and economic conditions warrant such extension.

This Commission is vested with certain powers and duties, among which is the fixing of rates of fares of public utilities operating in the State of California. There appears in section 3 of the franchise under which applicant seeks to operate, a provision purporting to fix a rate base and minimum rate of return for applicant's railway system. Inasmuch as this franchise, in providing an extension of only slightly over one mile, attempts to provide a basis of rate regulation for the entire system of applicant, a matter exclusively within the jurisdiction of this Commission, it appears desirable to briefly discuss the situation. Section 3 of Ordinance No. 908 reads as follows:

Section 3. This franchise, permit or privilege shall be understood to carry the right of the city or grantee to appeal to the proper State or Federal authorities to prescribe and regulate rates, fares, exchange of transfers, rentals or charges to be made by the grantee, it being agreed by the parties hereto, subject to approval of rate-making authorities, that for rate-making purposes the valuation of the entire railway system operated by grantee, plus a going concern value of 15%, shall be the rate base of said system, provided, also, that to said rate base there shall be added at the end of each year any shortage in the return in this article specified, and the same shall be and remain a part of said rate base until it is recouped from excess earnings in subsequent years.

Upon application by grantee the proper authority shall increase the percentage for going concern value to the extent that the same may be justified by improvement in its railway system and efficiency of service.

Upon such rate base grantee is entitled to earn a minimum cumulative return which shall be equal to at least eight (8%) per cent on the rate base as of the date established, plus a cumulative return on additions to rate base subsequent to that date.

The "return" to which grantee is entitled hereunder is to be considered as that part of its gross revenue which remains after deduction of all operating expenses, depreciation and taxes.

This provision, in my opinion, expresses merely the attitude of the present officials of the city of Stockton, as to what they believe is proper for the company to earn as a return upon investment. Further,

the section attempts to define terms such as "rate base" and "return." In this connection, the principles expressed in Decision No. 10401 of the application of the Fresno Traction Company for a certificate for the exercise of resettlement franchises apply equally well in this case and could appropriately be repeated here as follows:

Under the constitution of the state and under the Public Utilities Act, this Commission has sole jurisdiction in the matter of the fixing of rates. It follows that nothing contained in this franchise can absolve the Commission from its duty to fix fair and reasonable rates and it must in the fixing of such rates be controlled, of course, by the facts as they will be developed in any particular case under its own methods of investigation and in its own best judgment. It must be understood, therefore, that the Commission can not be bound in any rate proceeding by definitions or interpretations of terms such as "capital value," appearing in the resettlement franchise. This matter was discussed in the hearing by the presiding Commissioner with counsel for the city and for the company and there appeared to be general agreement as to the paramount rate-making authority of this Commission.

Public convenience and necessity justify the construction of this extension as proposed by applicant. The following form of order is submitted:

ORDER.

Stockton Electric Railroad Company having made application for a certificate of public convenience and necessity for the exercise of franchise granted by Ordinance No. 908 of the city of Stockton, a public hearing having been held, the Commission being apprized of the facts, the matter being under submission and ready for decision:

It is hereby found as a fact that public convenience and necessity require the construction and operation of an electric railroad from a point in the city of Stockton at the intersection of Wilson way and East Main street easterly along the center line of East Main street to the intersection with the east city limits of the city of Stockton, a distance of approximately 5750 feet; therefore,

It is hereby ordered, that Stockton Electric Railroad Company be and it is hereby authorized to exercise the privilege and franchise granted by that certain ordinance, No. 908 of the city of Stockton, filed with the application as Exhibit "A"; provided, however, that nothing therein shall be considered as having been approved by the Commission in this order as any basis of fixing rates of fares on the railway system of applicant, or on any portion thereof.

This order shall become effective twenty (20) days after the making thereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

The Commission reserves the right to make such further orders as may be necessary in this proceeding.

Dated at San Francisco, California, this twenty-eighth day of February, 1925.

DECISION No. 14618.

CITY OF OAKLAND, A MUNICIPAL CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY OF KENTUCKY, A RAILROAD CORPORATION, SOUTHERN PACIFIC RAILROAD COMPANY OF CALIFORNIA, A RAILROAD CORPORATION, AND SOUTH PACIFIC COAST RAILWAY COMPANY OF CALIFORNIA, A RAILROAD CORPORATION.

Case No. 1487.

Decided March 3, 1925.

Leon E. Gray, for City of Oakland.*Elmer Westlake and E. J. Foulds and F. L. Burckhalter* for Southern Pacific Company and others.*George E. Sheldon*, for the Uptown Association.*Oliver Kehrlein*, for Webster Street Improvement Association.*Henry C. McPike*, for property owners on Franklin street and on Webster street, etc.
Bessie Wood Gustason, for The Business and Professional Women's Club on Webster street.*Alice M. Brookman*, for the Y. W. C. A. on Webster street.*M. Goldwater*, property owner at Broadway and Franklin street.BRUNDIGE, *Commissioner*.

OPINION.

On the twenty-ninth day of September, 1924, the defendants in this proceeding filed a supplemental petition with this Commission in which authority is requested to abandon the defendants' station facilities and tracks in the block of land in the city of Oakland, California, bounded by Thirteenth, Fourteenth, Franklin and Webster streets, and on the triangular piece of property at the southwest corner of Fourteenth and Franklin streets; for authority to sell and convey said premises; for authority to abandon the existing tracks, facilities and franchises of the defendants on Franklin street, between Twentieth and Fourteenth streets; and for authority in lieu thereof to accept an amendment to the defendants' existing franchise, or such additional franchise rights as may be necessary, for the purpose of relocating said tracks to a new location along Twentieth street between Franklin and Webster streets, and along Webster street between Twentieth street and the existing tracks of the defendants at or in the vicinity of Thirteenth and Webster streets, including the right to construct any and all grade crossings involved in such new location, together with the right to operate jointly with said Key System Transit Company on the latter's tracks on Webster street, between Twentieth and Fourteenth streets and in addition for authority to the Key System Transit Company to operate its street railway cars with the cars and trains of the defendants along the tracks heretofore the tracks of the defendants on Webster street between Fourteenth street and Sixth street.

This supplemental petition was filed with the Commission as a result of an order by the Commission, dated August 6, 1924, reopening this proceeding for further hearing and suspending Decision No. 8604, dated January 27, 1921, pending such further hearings and decision thereon. The order reopening this proceeding became effective only upon dismissal by the Supreme Court of the State of California of that certain action pending before it, and entitled *Southern Pacific Company et al. vs. Railroad Commission of the State of California et al.*, and numbered S. F. 9818.

Public hearings in this proceeding, therefore, were held by the Commission on October 8, 14, 17 and 22, 1924. After the hearing on October 8, a preliminary order (Decision No. 14178, dated October 16, 1924), was issued by the Commission, granting defendants authority to abandon for purposes of operation and to sell and convey the triangular-shaped parcel of real property on the southwesterly corner of Fourteenth and Franklin streets, as the disposal of that particular property did not appear to interfere with the other issues before the Commission in this proceeding. The present decision, therefore, deals with these other issues.

It appears from the testimony that the proposals as to sale of real property and the rerouting of tracks as set forth above, were based on suggestions from Mayor John L. Davie, of Oakland, to the president of the Southern Pacific Company, and the plans set forth in the supplemental petition express the desires of the city authorities rather than the requests of the defendants.

The main issue in this proceeding appears to be the transfer of the block of land between Franklin and Webster, Thirteenth, and Fourteenth streets from operative railroad property to business uses. The rerouting of railroad traffic is therefore a secondary condition made necessary by such transfer.

There was no opposition whatsoever apparent at any of the hearings by any of the parties as to the desirability of removing the existing trackage through this block of land and of releasing the land from railroad operation for development as business property. There did not appear to be any great amount of opposition to the transfer of street railroad operation from Franklin street to Webster street, but a very strong protest was voiced by property owners, business, and other associations interested in Webster street against the operation on that street of the large type of cars used by the Southern Pacific Company on its suburban lines in its transbay traffic. Testimony shows that these large cars measure practically 11 feet in width over all by 72 feet 9 inches in length over bumpers and that the motor cars weigh about 100,000 pounds complete, and the trailers 60,000

pounds complete. No objection was offered by protestants to the operation by Southern Pacific Company on Webster street from Fourteenth street to Twentieth street of street car service with a small type of car jointly with similar service by the Key System Transit Company.

A very voluminous record of testimony was taken in this proceeding, most of which appears to have no direct bearing on the issues in this proceeding. The issue in this proceeding appears to be limited to a determination of whether the existing tracks and service of Southern Pacific Company shall be removed from along Franklin street and replaced with service along Webster street between Fourteenth and Twentieth streets with joint operation with the Key System Transit Company along Webster street between Sixth and Twentieth streets in order to make possible the releasing of the Fourteenth street terminal property for general business uses.

There appears to be no doubt as to the desirability of the sale by the defendants of the Fourteenth street terminal property. Testimony by all parties sustains such a sale. It remains to determine whether such sale is feasible without moving the service from Franklin to Webster streets.

Several other suggestions were offered by protestants with regard to alternate plans of rendering Southern Pacific service, but after careful consideration, these plans do not appear to be as feasible or as fully in accordance with the public interest as the plan proposed in the supplemental petition.

Returning to the original plan proposed by defendants, it appears from the testimony that the service to be rendered the public on Webster street will be practically an equivalent to the service now rendered on Franklin street. The benefits to be derived by the plan may be summarized as follows:

- (1) It will permit the removal of tracks from the three parcels of land which will allow of their sale.
- (2) The joint operation on Webster street will be one step toward increasing the size of the downtown street car loop and will permit of increased street car service on Webster street.
- (3) The plan will release one downtown street (Franklin street) entirely from railway use and allow its complete use by automobile traffic.

Against these benefits to the city of Oakland and the public at large, the Commission is asked to weigh the damage which Webster street property owners claim they will suffer through the routing of the present Franklin street service of the Southern Pacific Company on Webster street.

Protestants claim that the present franchise on Franklin street is a street car franchise which does not allow of the operation of the large type cars which the Southern Pacific Company uses in its transbay traffic. If such is the case, the remedy lies in some other tribunal and not in this Commission, nor through this proceeding.

Protestants do not object to the joint operation of street cars on Webster street, but do protest the operation of the large cars used in the transbay service of the Southern Pacific Company. There appear to be reasonable grounds for such protest and we are of the opinion that Southern Pacific Company should heed such protests and take steps to replace the large cars on this service with a smaller type of car not more than nine feet in width over eaves.

This decision can not deal with the operation of joint track by Southern Pacific Company and Key System Transit Company on Webster street for the reason that the Key System Transit Company is not a party to this proceeding and has not appeared before the Commission as petitioning for such joint operation. The Commission feels that the authority to construct the certain grade crossings, required in the proposed change of route granted by the Commission in this proceeding, should be made the subject of a separate proceeding.

ORDER.

Upon stipulation and agreement by the interested parties, and defendants herein having filed supplemental petition requesting the authorization of certain acts covering sale of property, routing of cars, etc., public hearings having been held thereon, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that the Commission's Decision No. 8604, dated January 27, 1921, be and it is hereby revoked.

It is hereby further ordered, that defendants herein be and they are hereby authorized to abandon for operative purposes and to sell and convey, either as a whole or in separate parcels, all that certain real property in Oakland, California, in the block bounded by Thirteenth, Fourteenth, Franklin and Webster streets, more particularly shown on map (East Bay Division Northern 3583, Case M-47) attached to the supplemental petition.

It is hereby further ordered, that defendants herein be and they are hereby authorized to discontinue the use of, take up and abandon all of their existing railroad tracks and facilities now existing between Twentieth and Franklin and Thirteenth and Webster streets and thereabouts; and to substitute therefor an equivalent service substantially along the route from Twentieth and Franklin streets to Twentieth and

Webster streets and thence along Webster street to a connection with the existing tracks of defendants at Thirteenth and Webster streets.

It is hereby further ordered, that Southern Pacific Company purchase and place in operation before June 30, 1926, on the proposed route via Twentieth street and Webster street, seven cars of a type not over nine feet in width at the eaves, and weighing not more than 85,000 pounds complete with motors and trucks, and that the large type of car now operated shall be operated after that date only when exigencies of the service demand such operation, subject to further orders of the Commission in this regard.

It is hereby further ordered, that all regular and normal service on the proposed route via Twentieth and Webster streets shall be rendered by Southern Pacific Company with cars not over nine feet in width and weighing not more than 85,000 pounds complete with motors, on and after June 30, 1927, subject to further orders by the Commission in this regard.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of March, 1925.

DECISION No. 14620.

C. F. BRAUN AND COMPANY,

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2083.

Decided March 3, 1925.

BY THE COMMISSION.

OPINION.

The C. F. Braun and Company, with its principal place of business at Alhambra, California, filed complaint December 30, 1924, alleging it suffered damages to the extent that rate assessed by defendant for the transportation of carloads of freight, regardless of classification, from Los Angeles to Shorb, on traffic originating at points beyond, exceeded \$7.20 per car.

Reparation only is sought.

The shipments, consisting of 41 miscellaneous carloads, moved during the period October 14, 1922, to July 13, 1923, from points north of Los

Angeles, principally San Francisco, Stockton, and Pacific Grove, and from points in southern California to Shorb. The statute of limitation was tolled by the Commission's letter to complainant, dated August 12, 1924, File I. C. 30893.

The only factor involved in this proceeding is from Los Angeles to Shorb.

Effective July 24, 1923, defendant established from Los Angeles to Shorb, in Item 2060-C of its Tariff 730-B, C. R. C. 2629, a rate of \$7.20 per car, applicable to freight, regardless of classification, on traffic originating at points beyond Los Angeles.

In its answer to the formal complaint defendant denied the allegation of the complainant and prayed that the complaint be dismissed. Under date February 14, 1925, defendant presented an amended answer, wherein it admitted the allegation of complainant and signified its willingness to make a reparation adjustment.

Under the issues as they now stand a formal hearing is unnecessary. We find that complainant made shipments as described in the complaint; that it paid and bore the charges thereon and has been damaged to the amount of the difference between the charges paid and those that would have accrued at \$7.20 per car and that it is entitled to reparation with interest.

The amount alleged to be due is set forth in the complaint as \$516.01, which amount can not be verified in the absence of the original paid freight bills. The complainant should submit statements to the defendant for check.

If it is not possible to reach an agreement the matter may be referred to this Commission for further consideration and the entry of a supplemental order, should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, the Southern Pacific Company, be and it is hereby authorized to refund, with interest, to complainant, C. F. Braun and Company, all charges it may have collected in excess of \$7.20 per car for the transportation of carloads of freight, regardless of classification, involved in this proceeding, from Los Angeles to Shorb, on traffic originating beyond Los Angeles.

Dated at San Francisco, California, this third day of March, 1925.

DECISION No. 14629.

ANGELES SNOWOLENE REFINING COMPANY, A CORPORATION, ASSOCIATED OIL COMPANY, A CORPORATION, EAST-WEST REFINING COMPANY, A CORPORATION, J. W. JAMESON CORPORATION, A CORPORATION, VERNON OIL REFINING COMPANY, A CORPORATION, GENERAL PETROLEUM COMPANY, A CORPORATION,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 2038.

Decided March 5, 1925.

RATES—STEAM RAILROAD—CRUDE OIL—REPARATION AWARDED.—Rates on crude petroleum or fuel oil, in tank cars, from Santa Fe Springs to Los Angeles, moving within two years prior to September 6, 1924, found excessive, unreasonable and discriminatory. Reparation awarded with interest. Complainants directed to submit statement of shipments to defendant for check, and if agreement on amount of reparations is not reached, the Commission will consider the matter further with the view to issuing a supplemental order.

Gwyn H. Baker, for Complainants.

E. W. Camp and *B. Levy*, for the Defendant.

B. H. Carmichael, *H. W. Glensor* and *F. W. Turcotte*, *Glensor, Cleve and Van Dine*, for the East-West Refining Company, Harbor Refining Company, Hercules Gasoline Company, J. W. Jameson Corporation, Sierra Refining Company, Wilshire Oil Company, Gilmore Petroleum Company, and Gilmore Oil Company, Interveners.

BY THE COMMISSION.

OPINION.

Complainants are engaged in the oil business, with refineries located within the switching limits of Los Angeles.

It is alleged by complaint filed September 6, 1924, that the rates on petroleum crude and fuel oil of 5 cents per 100 pounds prior to February 15, 1923, and 4 cents per 100 pounds during period February 15, 1923, to April 26, 1923, and 5½ cents per 100 pounds on refined petroleum oil prior to August 30, 1923, assessed and collected by defendant on various tank car shipments from Santa Fe Springs to Los Angeles, were unjust, excessive, unreasonable, discriminatory and in violation of sections 13 and 19 of the Public Utilities Act.

Reparation is sought to the basis of the subsequently established rate of 3 cents per 100 pounds on crude or fuel oil, and 4 cents per 100 pounds on refined oil.

A public hearing was held before Examiner Geary, December 17, 1924, and the matter is now ready for our decision and order.

Petition for leave to intervene was filed at the hearing, for reparation against shipments of refined oil, on behalf of the East-West Refining Company, Harbor Refining Company, Hercules Gasoline Company, J. W. Jameson Corporation, Sierra Refining Company, Wilshire Oil Company, Incorporated, Roseberg Oil Corporation, A. F. Gilmore Company, Gilmore Petroleum Company, and Gilmore Oil Company.

The rates will be stated in cents per 100 pounds, and rates stated as applying on crude oil also apply on fuel oil.

By stipulation between the complainants and defendant, the entire record in the proceeding entitled *East-West Refining Company et al. vs. Atchison, Topeka and Santa Fe Railway Company*, Case No. 2023, Decision No. 14533, decided February 5, 1925, was made a part of this proceeding.

Complainants' contention in this proceeding is that all of the fuel oil rates assessed and collected were unreasonable to the extent of their being in excess of rates on the same commodities concurrently in effect for the same or similar hauls in the same territory.

The only evidence offered by complainants other than the stipulation into this proceeding of the record in Case No. 2023, was in rebuttal to the defendant's claim that the fuel oil rates in southern California were depressed because of pipe line competition. Case No. 2023 involved only rates on crude oil and did not involve refined oil rates, although exhibits were submitted setting forth as a comparison, the rates on refined oils from and to various points.

Witness for the complainants testified it costs approximately 5 cents per barrel to transport crude oil 13 miles, the distance from Santa Fe Springs to Los Angeles, when moved via a rented pipe line, but if moved via an owned pipe line of one of the complainants the cost would approximate $2\frac{1}{2}$ cents per barrel. Five cents per barrel, stated in cents per 100 pounds, is approximately $1\frac{1}{2}$ cents per 100 pounds and $2\frac{1}{2}$ cents per barrel, $\frac{3}{4}$ cents per 100 pounds. This witness further stated crude oil would move via pipe line when facilities were available, in preference to moving via rail, because of the difference in cost between the two modes of transportation, and it was also stated it was impracticable to move refined oil via pipe lines. Defendant contended, however, that the net work of pipe lines covering southern California had a depressing effect upon all of its oil rates. These competing pipe lines no doubt reflect their influence on the rail rates.

As previously stated, the entire record in Case No. 2023 was made a part of the record in the present case and we there found that a rate of 3 cents on petroleum, crude and fuel oil, from Santa Fe Springs to Los Angeles, was just and reasonable under the existing circumstances and conditions and, therefore, it will serve no good purpose to here reiterate in detail the situations controlling in Case No. 2023, other than to state that the same are present in the instant proceeding.

We find that the rates assessed and collected by defendant on complainants' shipments of petroleum crude and fuel oil in tank cars, minimum weight Shell gallonage capacity of car, from Santa Fe Springs to Los Angeles, involved in this proceeding, moving within two years prior to September 6, 1924, were excessive, unreasonable and

discriminatory to the extent they exceeded 3 cents per 100 pounds; that complainants have been damaged in amount of the difference between the charges paid and those that would have accrued on the basis herein found just and reasonable and that they are entitled to reparation with interest. Complainants should submit statement of shipments to the defendant for check. Should it not be possible to reach an agreement, the matter may be referred to this Commission for further consideration and the entry of a supplemental order, should such be necessary.

The record does not disclose whether or not there is a refinery at Santa Fe Springs, or the location of all the oil refineries in southern California.

Below are shown rates in effect during the period of tonnage movement on refined oils from various producing points to Los Angeles, submitted by complainants in exhibits in Case No. 2023.

From	El Segundo, A. T. and S. F.	Long Beach		Redondo Beach, A. T. and S. F.	Whittier		Los Nietos, A. T. and S. F.	Santa Fe Springs, A. T. and S. F.
		L. A. and S. L.	S. P.		L. A. and S. L.	S. P.		
To Los Angeles (miles).....	17	19	23	22	12	21	12	13
	Rates in cents per 100 pounds.							
Aug. 19, 1922.....	² 4 4	4	8½ 8½	¹ 11 11	¹ 11 11	¹ 11 11	5½ 11	5½ 14
Aug. 30, 1923.....								

¹5th class rate.

²Effective August 20, 1922.

³Effective May 31, 1923.

It is alleged by complainants that defendant assessed and collected on refined petroleum oils prior to August 30, 1923, a rate of 5½ cents per 100 pounds from Santa Fe Springs to Los Angeles, but since there was established by defendant May 31, 1923, a rate of 4 cents per 100 pounds from Santa Fe Springs to Los Angeles (Santa Fe Tariff C. R. C. C. L. 531), any charges collected in excess of 4 cents per 100 pounds on shipments moving on and subsequent to May 31, 1923, should be refunded by the defendant.

The rate on refined oils from Los Angeles, a refining point, to Pasadena, a distance of 9 miles, is 7 cents; to Monrovia, 19 miles, 10½ cents; to Butler, 21 miles, 10½ cents; to Kincaid, 22 miles, 10½ cents. These are the actual fifth class rates from Los Angeles, and rates from other refining points beyond Los Angeles have in some instances been placed on the Los Angeles basis.

Many of the rates from the producing points to the refining points, as well as from the refining points to consuming points, are the same as the fifth class rates. The defendant contends that the fifth class rates are the normal level of refined oil rates in the territory involved,

but commodity rates have been established in many instances lower than the fifth class.

Los Nietos is 12 miles from Los Angeles and Santa Fe Springs 13 miles. The refined oil rate of $5\frac{1}{2}$ cents prior to May 31, 1923, from Santa Fe Springs to Los Angeles was the same as in effect from Los Nietos, which was lower than the fifth class rate contemporaneously in effect.

While prior to May 31, 1923, the refined oil rates from El Segundo to Los Angeles were lower than rates contemporaneously in effect from Santa Fe Springs, the rates from Santa Fe Springs were lower or compared favorably with many of the refined oil rates in effect from other producing points.

The record does not disclose the average weight of complainants' refined oil shipments, therefore it is impossible to determine the revenue per car mile or per car.

Complainants did not seriously support their allegations of undue prejudice or discrimination as to refined petroleum oils and having submitted no evidence, there will be, therefore, no findings thereon.

After consideration of all the facts of record, we find that the rates assessed by defendant on shipments of refined petroleum oil not excessive, unjust or unreasonable.

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and basing its order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the Atchison, Topeka and Santa Fe Railway Company refund, with interest, to the Angeles Snowolene Refining Company, Associated Oil Company, East-West Refining Company, J. W. Jameson Corporation, Vernon Oil Refining Company and General Petroleum Corporation, all charges that may have been collected in excess of 3 cents per 100 pounds, the rate found to be reasonable and nondiscriminatory for the transportation of petroleum fuel or crude oil, in tank cars, minimum weight Shell gallonage capacity of car, from Santa Fe Springs to Los Angeles, within two years prior to September 6, 1924.

It is hereby further ordered, that the complaint be and the same is hereby dismissed in so far as the rates on refined petroleum products are involved.

Dated at San Francisco, California, this fifth day of March, 1925.

DECISION No. 14630.

IN THE MATTER OF THE APPLICATION OF GERSON WATER COMPANY
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 10755.

Decided March 5, 1925.

Phil Jacobson, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding Samuel Gerson, under the fictitious name of Gerson Water Company, asks for a certificate of public convenience and necessity for the operation of a public utility water system for domestic purposes in tracts numbers 6084, 6627, 6785, 7046, 7846, 7906, 8227 and 8496, Los Angeles County, and for the establishment of reasonable charges for the service to be rendered.

A public hearing in this matter was held before Examiner Williams at Los Angeles, after due notice thereof had been given so that all interested parties might appear and be heard.

The testimony shows that applicant has installed upon each of the above named tracts a complete automatic pumping unit and water distribution system; that in each instance there is no other public utility water company serving water in the immediate vicinity from which water can be obtained; that applicant is in the pipe and pump business and well versed in the operation of water systems; that pipe lines were installed in each of the above named tracts prior to the acceptance of the streets by the county authorities, making it unnecessary to secure a county franchise.

Applicant stated that a full return on the investment would not be expected until the tracts are developed. No charges have been made for water service, and there are no records of actual operating costs available for this particular group of water systems. The proposed schedule of rates set out in the application is reasonable and compares favorably with the rates charged by other utilities operating in the general vicinity and under like conditions.

No one appeared to protest the granting of a certificate of public convenience and necessity. It appears therefore that this application should be granted.

ORDER.

Samuel Gerson, under the fictitious name and style of Gerson Water Company, having made application to this Commission as entitled above, a public hearing having been held thereon, the matter having been duly submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that

Samuel Gerson, doing business under the fictitious name and style of Gerson Water Company, operate a water system for the purpose of supplying water for domestic purposes in each of the tracts above mentioned, more particularly described in the application herein and located in Los Angeles County.

It is hereby ordered, that Samuel Gerson be and he is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for all service rendered to consumers subsequent to April 1, 1925:

Monthly Flat Rates.

For residence	\$1 50
For each garage with one automobile.....	25
For each additional automobile.....	15
For each barn including one horse or cow.....	15
For each additional horse or cow.....	15
Sprinkling or irrigating lawns or gardens, per 100 square feet of surface actually irrigated	05

Monthly Meter Rates.

800 cubic feet or less.....	\$1 50
800 cubic feet to 1200 cubic feet, per 100 cubic feet.....	20
All in excess of 1200 cubic feet, per 100 cubic feet.....	15

Meters may be installed at the option of the utility or the consumer. If installed at the option of the utility, the entire cost of same shall be borne by the utility. If installed at the option of the consumer, the consumer shall deposit with the utility the sum of \$15, which sum shall be returned to the consumer at the rate of 50 per cent of the water bill each month until the entire amount deposited shall have been returned.

It is hereby further ordered, that Samuel Gerson be and he is hereby directed to file with the Railroad Commission, within thirty (30) days from the date of this order, rules and regulations governing the distribution of water and relations with consumers, said rules to become effective upon their acceptance by the Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this fifth day of March, 1925.

DECISION No. 14638.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUE AND SALE OF TWO MILLION DOLLARS SERIES "C" BONDS.

Application No. 10862.

Decided March 5, 1925.

Dunne, Brobeck, Phleger and Harrison, by W. I. Brobeck, for Applicant.

BRUNDIGE, Commissioner.

OPINION.

The California-Oregon Power Company asks permission to issue and sell at 93 per cent of their face value and accrued interest \$2,000,000 of its series "C" first and refunding mortgage 5½ per cent sinking fund gold bonds, due February 1, 1955. The company further asks permission to issue, sell and deliver temporary certificates for the bonds, such certificates to be thereafter exchanged for the bonds when the same are issued.

The company intends to use some of the proceeds obtained from the sale of the bonds to pay \$1,482,000 of 7 per cent 20-year convertible gold debentures due May 1, 1944, and \$155,000 of 6 per cent Klamath Power Company bonds due April 1, 1931. The debentures are callable at 104¾ per cent, and the Klamath Power Company bonds at 105 per cent of their face value. It is estimated that to refund the two issues of funded debt and pay the expenses incidental to the issue of the new bonds the company will have to incur an expenditure of about \$1,723,395. To realize this amount, applicant, if it sells its bonds at 93 per cent, will have to dispose of \$1,853,000 of series "C" bonds, or an amount which is \$216,000 in excess of the face value of the debentures and bonds to be paid.

The present annual interest charges of the company are reported at \$556,840, while the annual interest charges after the refunding has been completed will be \$545,715 or \$11,125 less than at present. To amortize the increase (\$216,000) in the bonded debt of the company calls for an annual expenditure of \$3,096 which amount deducted from the \$11,125 leaves a net annual saving of \$8,039 in interest charges.

If the company sells \$2,000,000 of bonds at ninety-three it will realize \$1,860,000. Deducting from such amount the \$1,723,395 heretofore mentioned leaves \$136,605 available for construction purposes. It is of record that the company will use the \$136,605 to finance part of its 1925 estimated construction expenditures set forth in its budget filed (Exhibit No. 3) in this proceeding.

I herewith submit the following form of order:

ORDER.

The California-Oregon Power Company having applied to the Railroad Commission for permission to issue \$2,000,000 of series "C" bonds and to issue, pending the delivery of such bonds, temporary certificates, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such bonds or certificates is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The California-Oregon Power Company be and it is hereby authorized to issue and sell on or before July 1, 1925, at not less than 93 per cent of their face value and accrued interest, \$2,000,000 of its series "C" first and refunding mortgage 5½ per cent sinking fund gold bonds due February 1, 1955. Pending the delivery of such bonds the company may issue, sell and deliver temporary certificates for said bonds, which certificates are to be exchanged for said bonds when issued.

The authority herein granted is subject to further conditions as follows:

1. Of the proceeds obtained from the sale of the bonds, an amount not exceeding \$1,723,395 may be used by the company to pay the \$1,482,000 of 7 per cent twenty-year sinking fund convertible gold debentures due May 1, 1944, the \$155,000 of Klamath Power Company 5 per cent bonds due April 1, 1931, and the payment of expenses incident to the payment of such debentures and bonds and the issue of the bonds herein authorized. The sum of \$136,605, together with such portion of the \$1,723,395 not needed for the aforesaid purposes shall be used by the company to finance in part construction expenditures set forth in its Exhibit No. 3. The accrued interest on the \$2,000,000 of bonds herein authorized to be issued and sold may be used for general corporate purposes.

2. The California-Oregon Power Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted to issue bonds or temporary certificates will become effective when the company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$518.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of March, 1925.

DECISION No. 14639.

IN THE MATTER OF APPLICATION OF CARPINTERIA WATER COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 10514.

Decided March 5, 1925.

Schaucer and Ryon, by *Harrison Ryon*, for Applicant.
7—36855

BY THE COMMISSION.

OPINION.

In the above entitled application. Carpinteria Water Company, a corporation, asks the Railroad Commission for a certificate of public convenience and necessity for the operation of a public utility water system in and in the vicinity of Carpinteria, Santa Barbara County.

A public hearing in this matter was held before Examiner Williams at Santa Barbara after due notice thereof had been given so that all interested parties might appear and be heard.

The testimony shows that for the past five years Frank L. Stewart and E. Stanley Atkinson have been serving water for domestic purposes to this community. The water supply and distribution facilities rapidly became inadequate for the needs of the growing population and in 1924 new well's were drilled, larger pumping equipment installed, and the distribution system enlarged. Stewart and Atkinson organized the Carpinteria Water Company and incorporated it on the 22d day of July, 1924, to take over the title to their enlarged and improved plant and carry on the operations to supply the entire town and all present consumers with water in adequate quantities and under more efficient conditions.

An investigation of this water system and its methods and conditions of operation was made by William Stava and M. I. Reed, assistant engineers of this Commission, who submitted a report showing that the reasonable estimated original cost of the used and useful property which the applicant proposes to acquire is \$35,865, which excludes \$7,951 in nonoperative properties, a part of which may also be transferred to the incorporated company. This report sets forth the depreciation annuity upon the operative properties as \$541, based upon the sinking fund method at 5 per cent, and shows that the costs of operation and maintenance exclusive of taxes and depreciation for the year 1924, totaled \$1,012. The revenues collectible during the same period were \$3,016.

The rates now charged on this system are as follows:

<i>Monthly Charges.</i>	
Domestic consumers -----	\$2 00 per month
Office buildings -----	1 25 per month
Schools -----	30 00 per month
Churches, dairies, hotels, etc.-----	\$2 00 to 7 00 per month

It is the desire of applicant that the Commission approve a schedule of rates which is somewhat higher than those now in effect. It should be pointed out at this time, however, that the evidence clearly establishes the fact that this water system is considerably overbuilt and capable of serving a much greater population than now exists. As the system is yet in the development stage, the Commission can not grant a

rate which will yield a full return upon the present investment without at the same time establishing a rate which would be greater than the service would be reasonably worth. With the exception of the rate for school service the existing rates do not appear unreasonable and will be authorized for filing as set out in the order following. The Commission believes that in the near future the installation of meters may become advisable, at least as to those classes of consumers requiring large quantities of water such as schools, industrial uses and perhaps certain commercial enterprises. The applicant therefore should take steps in the near future to file with the Commission for its approval a schedule of meter rates.

The applicant has already secured a franchise from the board of supervisors of Santa Barbara County authorizing the operation of this water system in and in the vicinity of Carpinteria. No public utility is supplying water in this territory other than the system now owned by Stewart and Atkinson, which applicant intends to acquire, and no one appeared to protest the issuance of a certificate of public convenience and necessity. It appears that the application should be granted.

ORDER.

Carpinteria Water Company, a corporation, having made application to this Commission as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that Carpinteria Water Company, a corporation, operate a water system for the purpose of supplying water in the territory more particularly described in the application herein.

It is hereby ordered:

1. That the authority herein granted shall not become effective unless and until Carpinteria Water Company, a corporation, acquires from Frank L. Stewart and E. Stanley Atkinson the operative water properties, plant and distribution system owned and operated by them and more particularly described in the application herein.

2. That a certified copy of the instrument of conveyance shall be filed with the Commission for its approval, by said Carpinteria Water Company within thirty (30) days from the date on which it is executed.

3. That Carpinteria Water Company, a corporation, be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for all water delivered by it:

Flat Rates.

Residences, per month-----	\$2 00
Office buildings, per month-----	1 25
Churches, dairies, hotels, etc., according to use of water, per month \$2 00 to	7 00
Schools, per month-----	15 00

4. That Carpinteria Water Company, a corporation, be and it is hereby authorized and directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, said rules and regulations to become effective upon their acceptance for filing by the Commission.

5. That Carpinteria Water Company, a corporation, be and it is hereby authorized to file with this Commission, and subject to its approval, a schedule of meter rates for water service to its consumers.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this fifth day of March, 1925.

DECISION No. 14644.

IN THE MATTER OF THE APPLICATION OF EDWARD H. COOKINGHAM, FOR AN ORDER AUTHORIZING HIM TO SELL THE LAGUNA BEACH TELEPHONE PLANT, SYSTEM AND FRANCHISE TO LAGUNA BEACH TELEPHONE COMPANY, A CORPORATION, AND FOR AN ORDER AUTHORIZING SAID CORPORATION TO PURCHASE SAID TELEPHONE PLANT, SYSTEM AND FRANCHISE.

Application No. 10697.

Decided March 10, 1925.

James L. Hansen, for Applicants.

BY THE COMMISSION.

OPINION.

In this application, as amended at the public hearing held before Examiner Fankhauser, the Railroad Commission is asked to make an order:

1. Authorizing Edward H. Cookingham to sell and transfer his public utility telephone franchise, plant and system located in Laguna Beach, Orange County, subject to outstanding indebtedness, to Laguna Beach Telephone Company, a corporation; and

2. Authorizing Laguna Beach Telephone Company to issue in part payment therefor \$15,000 of its common capital stock and to issue and sell \$35,000 of its common capital stock to finance the cost of additions and improvements; and

3. To issue promissory notes secured by mortgage, for the purpose of financing the cost of additions and improvements.

It appears that Edward H. Cookingham, under the firm name and style of Laguna Beach Telephone Company, owns and operates a tele-

phone system in and near Laguna Beach and a toll line extending from Tustin to Laguna Beach, serving about 100 subscribers at present.

As of November 30, 1924, his assets and liabilities are reported as follows:

Current assets:	Assets.		
Cash on hand -----		\$835 52	
Accounts receivable -----		252 20	
Storeroom -----		510 24	
			\$1,597 96
Plant and equipment:			
Account 200, Intangibles capital -----		\$1,005 37	
220, Central office equipment -----		665 85	
230, Station equipment -----		2,098 08	
240, Exchange lines -----		4,262 29	
250, Toll lines -----		5,649 71	
260, General equipment -----		317 71	
			13,999 01
			\$15,596 97
Current liabilities:	Liabilities.		
Accounts payable -----		\$626 71	
Notes payable -----		2,000 00	
Subscribers' deposits -----		59 25	
			\$2,685 96
Unadjusted items:			
Accrued taxes -----		\$300 00	
Reserve for depreciation -----		1,098 04	
			1,398 04
Capital invested -----			11,512 97
			\$15,596 97

The record shows that Edward H. Cookingham is of the opinion that the business can be operated better, and funds for additional construction work more easily obtained, by a corporation than by himself, and for that reason has caused the organization of Laguna Beach Telephone Company. The articles of incorporation of Laguna Beach Telephone Company show that it was organized on or about November 7, 1924, with an authorized capital stock of \$50,000, divided into 500 shares of the par value of \$100 each, all common. The present application, therefore, involves the issue of the total authorized capital stock, it being planned to deliver \$15,000 to Edward H. Cookingham in part payment for his properties, and to sell \$35,000 from time to time as funds are needed for additional properties.

The foregoing balance sheet shows investment in plant and equipment as of November 30, 1924, of \$13,999.01, which amount is said to represent actual expenditures by Edward H. Cookingham in purchasing and constructing his telephone system. The balance sheet shows total assets of \$15,596.97 which is offset by current liabilities of \$2,685.96, reserve for depreciation of \$1,098.04, unadjusted credit items of \$300 and capital invested of \$11,512.97.

It is of record that the properties involved in this application will be transferred to the corporation on condition that it assumes the payment of the outstanding indebtedness. We believe that the corporation should issue stock to acquire the properties only in an amount equal to the reported investment by Edward H. Cookingham. The order herein will therefore authorize the issue of \$11,600 of stock for this purpose. The making of such an order, however, is not to be construed as fixing a value on the properties involved in this application for the purpose of fixing rates, or for any purpose other than this transfer.

In connection with the request of the corporation to issue \$35,000 of stock to pay for additional construction work, it developed at the hearing that the company was not in a position to advise the Commission of the purposes for which such stock would be issued. It is of record that the acquisition of properties during the current year will be financed through the issue of notes. The testimony does not warrant the Commission at this time to make an order authorizing the issue of \$35,000 of stock.

By Decision No. 14156, dated October 9, 1924, in Application No. 10510, the Commission authorized Edward H. Cookingham, doing business under the firm name and style of Laguna Beach Telephone Company, to execute a mortgage, substantially in the same form as the one filed as Exhibit "E" in Application No. 10510, and to issue 3-year 7 per cent notes in the total face amount of \$8,000 for the purpose of making additions, extensions and improvements to his telephone properties. At the time of filing Application No. 10510, Mr. Cookingham advised the Commission that he planned to install at an estimated cost of \$5,594.85, two circuits of No. 12 copper wire from Tustin to Laguna Beach to improve service. In addition he reported that he intended to extend a pole line to McKnight's addition, at an estimated cost of \$363.10, and to extend a pole line to Coast Royal addition and to make other improvements at an estimated cost of \$1,349.60. It was to finance these expenditures that the Commission authorized the issue of the \$8,000 of notes.

Of these notes it appears that only \$2,000 have been issued to date, the payment of which notes will be assumed by the corporation in taking over the properties of Mr. Cookingham. It is reported that those in control of the corporation desire to proceed with the installation of the additions, extensions and improvements described in Application No. 10510. The request therefore is made by the corporation for permission to issue notes for these purposes.

ORDER.

Application having been made to the Railroad Commission for an order authorizing Edward H. Cookingham to transfer public utility

telephone properties and Laguna Beach Telephone Company to issue stock and notes, secured by mortgage, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for by the issue of the stock and notes herein authorized is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Edward H. Cookingham, doing business under the firm name and style of Laguna Beach Telephone Company, be and he is hereby authorized to transfer his public utility telephone properties, described in the above numbered application, to Laguna Beach Telephone Company, a corporation.

It is hereby further ordered, that Laguna Beach Telephone Company, a corporation, be and it is hereby authorized to issue, sell or deliver at par \$11,600 of its common capital stock, to issue and sell at par \$8,000 of promissory notes payable on or before three years after date with interest at not exceeding 7 per cent per annum, and to execute a mortgage, to secure the payment of such notes in substantially the same form as the mortgage heretofore filed as Exhibit "E" with the Commission in Application No. 10510.

The authority herein granted is subject to the following conditions:

1. In payment for the telephone properties herein authorized to be transferred, Laguna Beach Telephone Company, a corporation, may issue to Edward H. Cookingham the \$11,600 of stock, and assume the payment of indebtedness of not exceeding \$2,985.96 and the obligation represented by the reserve for accrued depreciation of \$1,098.04, as of November 30, 1924.

2. Laguna Beach Telephone Company, a corporation, may use \$2,000 of the proceeds obtained from the issue and sale of the \$8,000 of notes to pay \$2,000 of notes which it is authorized to assume and \$6,000 to finance the cost of extensions, additions and betterments set forth in Application No. 10510 and referred to in the foregoing opinion.

3. The authority herein granted to execute a mortgage is for the purpose of this proceeding only, and is granted only in so far as this Commission has jurisdiction under the Public Utilities Act, and is not intended as an approval of such mortgage as to such other legal requirements to which said mortgage may be subject.

4. The price at which Edward H. Cookingham is authorized to transfer his telephone properties shall not be urged before this Commission or other public body having jurisdiction, as a measure of the value of such properties, for any purpose other than the transfer herein authorized.

5. Applicant shall keep such record of the issue, sale and delivery of the stock and notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted to transfer properties and issue stock will become effective upon the date hereof. The authority herein granted to issue notes and execute a mortgage will become effective only when Laguna Beach Telephone Company, a corporation, has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which minimum fee is \$25. Under the authority herein granted no stock or notes will be issued after December 15, 1925.

Dated at San Francisco, California, this tenth day of March, 1925.

DECISION No. 14645.

IN THE MATTER OF THE APPLICATION OF CARPINTERIA WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 10731.

Decided March 10, 1925.

Schaer and Ryon, by Harry A. Ryon, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Carpinteria Water Company to issue \$100,700 of its common stock in full payment for certain water properties, now owned by Frank L. Stewart and E. Stanley Atkinson, located in and about the town of Carpinteria, Santa Barbara County.

For a brief description and history of the water system of Stewart and Atkinson and the rates charged for service, reference is made to the decision in Application No. 10514. In that proceeding, filed with the Commission on October 2, 1924, Carpinteria Water Company asked the Commission to make an order declaring that public convenience and necessity require and will require the operation of a water system by Carpinteria Water Company in the region indicated hereinabove. The Commission's decision granted the company's request but provided that the authority granted to operate a water system would not become effective until Carpinteria Water Company acquired from Frank L. Stewart and E. Stanley Atkinson the operative water properties, plant and distribution system owned by them.

This application, filed on January 14, 1925, is for permission to issue stock to acquire such properties. In Exhibits "B" and "C" attached

to the petition, applicant reports the value of the properties, as of December 31, 1924, as \$100,729.50, which amount includes the following:

Real estate		\$5,000 00	
Machinery and equipment:			
Pumping and equipment	\$4,310 64		
Less depreciation	247 09		
		\$4,063 55	
Tank and reservoirs	15,511 84		
Less depreciation	1,512 94		
		13,998 90	
			18,062 45
Pipe lines	\$12,721 49		
Less depreciation	897 59		
			11,823 90
Wells	\$5,018 30		
Less depreciation	380 06		
			4,638 24
Water in wells:			
40 inches at \$1,500 per inch			60,000 00
Organization expenses:			
Incorporation	\$346 95		
Franchise	757 96		
Legal	100 00		
			1,204 91
			<u>\$100,729 50</u>

The record indicates that the amounts reported for the land and for the other properties and for organization represent actual expenditures made by Stewart and Atkinson. The item of \$60,000 urged for water rights is not supported by a sufficient amount of evidence. We believe that when an applicant in a proceeding before the Commission claims certain values for properties and rights, the burden of proof that such values are reasonable rests on the applicant. In this case it appears from the testimony that the alleged value of \$60,000 for water rights is based neither on the cost to Stewart and Atkinson in developing their water supply nor on recent sales of water rights in this region, but on the fact that during the dry weather in 1924 the wells belonging to Stewart and Atkinson produced a continuous flow of water, whereas other wells in the vicinity failed. For this reason a value of \$1,500 an inch for the 40 inches of water developed was considered reasonable by applicant. We do not believe that applicant has made a showing upon which we can base an order authorizing the issue of \$60,000 of stock in payment for water rights. We therefore will give consideration at this time to the values of the physical properties and to the actual expenditures for organization purposes. Deducting the \$60,000 from the reported total of \$100,729.50 leaves a balance of \$40,729.50.

In the decision in Application No. 10514 it is recited that an investigation of the water system and its methods of operation was made by William Stava and M. I. Reed, assistant engineers of the Commission, who submitted, in that proceeding, a report in which they estimated

the original cost, undepreciated, of the used and useful property, exclusive of any allowance for water rights, at \$35,864, and of the nonoperative properties at \$7,951, making a total of \$43,815. However, it developed at the hearing held in this matter that Stewart and Atkinson do not intend to transfer to the corporation certain properties, consisting principally of wells located on land not being purchased by the corporation, which are said to have cost approximately \$4,315 and which are included in the total of \$43,815. Deducting this amount from the \$43,815 there is left a balance of \$39,500.

Five shares of stock will be issued to qualify directors. Adding these shares to the estimated original cost of the properties to be acquired by the corporation results in a total of \$40,000, which in our opinion is the amount of stock the company should be permitted to issue at this time.

ORDER.

Carpinteria Water Company having applied to the Railroad Commission for permission to issue \$100,700 of its common capital stock, a public hearing having been held before Examiner Williams, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of \$40,000 of stock is reasonably required by applicant for the purposes specified herein;

It is hereby ordered, that Carpinteria Water Company be and it is hereby authorized to issue from and after the date hereof and on or before July 31, 1925, \$40,000 of its common capital stock, in full payment for the properties referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. Carpinteria Water Company shall keep such record of the issue and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The amount of stock which Carpinteria Water Company is herein authorized to issue in payment for the properties of Stewart and Atkinson is not to be considered as a measure of value of said properties for any purpose other than this proceeding.

It is hereby further ordered, that the application in so far as it relates to the issue of \$60,700 of stock be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this tenth day of March, 1925.

DECISION No. 14646.

IN THE MATTER OF THE APPLICATION OF S. H. FINLEY TO SELL
HIS WATER SYSTEM TO THE HUNTINGTON BEACH WATER

COMPANY, AND OF THE HUNTINGTON BEACH WATER COMPANY
TO PURCHASE SAID WATER SYSTEM AND ISSUE ITS STOCK IN
PAYMENT THEREFOR.

Application No. 10798.
Decided March 10, 1925.

H. V. Anderson, for Applicants.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing S. H. Finley to transfer a public utility water system to Huntington Beach Water Company, and authorizing Huntington Beach Water Company to issue \$6,000 of its common capital stock in payment therefor.

A public hearing in this matter was held before Examiner Williams in Los Angeles.

The record herein shows that S. H. Finley, operating under the firm name and style of East Side Water Company, has been engaged in supplying water for domestic purposes in what is known as the Vista Del Mar tract in the easterly portion of the city of Huntington Beach, serving an area of about three-fourths of a mile by one and one-half miles in dimension. At present it is reported that 157 consumers are served, of whom 135 are said to be on a metered basis.

It appears that the system involved in this proceeding was installed about twenty years ago, when the region now served by it was being subdivided. At first water was obtained from a well owned by S. H. Finley, but later it was deemed advisable to abandon the well and to purchase water from Huntington Beach Water Company, or its predecessor, at the regular low rates for large quantities and to distribute it to its consumers at the higher rates for smaller quantities. For the year 1924, S. H. Finley reports net revenues of \$384.74, for 1923 of \$599.22, for 1922 of \$636.48 and for 1921 of \$678.78.

It is of record that Mr. Finley desires to withdraw from the public utility water business and has agreed to sell his plant to Huntington Beach Water Company for \$6,000 of the common stock of that company. The purchase price is based on an appraisal made by H. V. Anderson, an engineer and the manager of the purchasing company. In his appraisal, a copy of which is attached to the application, Mr. Anderson estimates the reproduction cost less depreciation as \$6,360.30 which amount contains the following elements of value:

Pipe	\$4,604 57
Services	627 00
Meters	983 00
Fittings	145 73
	<hr/>
	\$6,360 30

Huntington Beach Water Company operates in territory contiguous to that served by S. H. Finley and it is thought that by combining the two systems public convenience and necessity will be better served. It is reported that there is no duplication of property and that the system by being transferred can be used by the purchaser without any large sums being expended at this time for repairs or replacements. It appears that the rates charged consumers on the Finley system are identical with those charged consumers on the system of Huntington Beach Water Company.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of properties and the issue of stock, a public hearing having been held and the Commission being of the opinion that the application should be granted and that the issue of stock is reasonably required;

It is hereby ordered, that S. H. Finley, doing business under the firm name and style of East Side Water Company be and he is hereby authorized to transfer, on or before July 1, 1925, the public utility water properties, to which reference is made in the foregoing opinion, to Huntington Beach Water Company, which company is hereby authorized to acquire such properties and issue in payment therefor \$6,000 of its common capital stock.

The authority herein granted is subject to the following conditions:

1. Within thirty days after execution of the deed conveying the properties herein authorized to be transferred, a certified copy thereof shall be filed with the Commission by Huntington Beach Water Company.

2. The consideration being paid for the aforesaid properties shall not be urged as the value of said properties for any purpose other than the transfer herein authorized.

3. Huntington Beach Water Company shall keep such record of the issue and delivery of the stock herein authorized as will enable it to file within 30 days after such issue and delivery a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. Within ten days from the date on which S. H. Finley actually relinquishes control and possession of the property herein authorized to be sold, he shall file with this Commission an affidavit indicating the date upon which such control and possession was relinquished.

5. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this tenth day of March, 1925.

DECISION No. 14647.

IN THE MATTER OF THE APPLICATION OF BENJAMIN FRANKLIN NELSON AND ELIZABETH NELSON TO PURCHASE, AND CONSOLIDATED WATER AND DEVELOPMENT COMPANY, A CORPORATION, TO SELL THAT CERTAIN PUBLIC UTILITY KNOWN AS MELVIN PLACE WATER PLANT.

Application No. 10805.

Decided March 10, 1925.

Glen Behymer, for Benjamin Franklin Nelson and Elizabeth Nelson.
Harry L. Person, for Consolidated Water and Development Company.

BY THE COMMISSION.

OPINION.

In this application, the Railroad Commission is asked to make an order authorizing Consolidated Water and Development Company to transfer a public utility water system, known as the Melvin Place Water Plant, to Benjamin Franklin Nelson and Elizabeth Nelson, and to receive in exchange therefor, \$25,000 of its own stock, which it proposes to cancel.

Consolidated Water and Development Company was organized on or about January 25, 1924, with an authorized capital stock of \$500,000 divided into 5000 shares of the par value of \$100 each, all common. By Decisions No. 13662 and No. 14102, the company was authorized to issue \$136,600 of its stock in part payment of eight water systems, located in Los Angeles County, known as the North Moneta Water Company, the Eighty-seventh and San Pedro System, the Emil Firth System, the Howard Park Water Company, the Lawndale Acres Water Plant, the El Segundo Gardens Plant, the Fairfax Park System and the Cypress Gardens Water System.

It appears that pursuant to the permission granted by this Commission, the company issued its stock in the amount authorized. At present this stock is reported held as follows:

E. J. Whitney	\$55,450 00
Harry L. Person	55,450 00
B. F. Nelson and Elizabeth Nelson	25,000 00
Wm. R. Yoemans	200 00
J. C. Yoemans	100 00
B. W. Hopkins and A. Hopkins	100 00
C. B. Hyde and C. A. Hyde	100 00
Myrtie H. Whitney	100 00
Blanch V. Person	100 00
	<hr/>
	\$136,600 00

Benjamin Franklin Nelson and Elizabeth Nelson, the other applicants herein, prior to October 7, 1924, were the owners and operators of a public utility water system, known as the Melvin Place Water Plant, which was located near the corner of Moneta Avenue and Ninety-sixth street, just outside the southerly limits of the city of Los Angeles. By

Decision No. 14147, dated October 7, 1924, the Nelsons were authorized to transfer the water plant to E. J. Whitney and Harry L. Person for \$25,000 of the stock of Consolidated Water and Development Company, then held by them. By the same decision, E. J. Whitney and Harry L. Person were authorized, in turn, to transfer the properties to Consolidated Water and Development Company, which was permitted to issue its 5-year 7 per cent notes for \$25,000 in payment therefor.

It is now reported that the Nelsons are dissatisfied with being minority stockholders in a corporation and desire to surrender the \$25,000 of stock held by them and to regain ownership and possession of the Melvin Place Water Plant and to resume the operation thereof as an individual. The corporation reports that it is willing to return the properties to the Nelsons and to receive in consideration the \$25,000 of stock which had been received by them from E. J. Whitney and Harry L. Person. Upon receiving such stock the corporation proposes to cancel it.

However, pursuant to the Commission's Decision No. 14147, the corporation upon acquiring the Melvin Place Water Plant issued in payment its 5-year 7 per cent notes for \$25,000. The delivery of \$25,000 of stock to Benjamin Franklin Nelson and Elizabeth Nelson for their properties did not constitute a new issue of stock by the corporation, but rather a transfer from one stockholder to another. We believe that in relinquishing the properties comprising the Melvin Place Water Plant the corporation should cancel the \$25,000 of notes it formerly issued in payment for such properties, rather than the \$25,000 of stock.

It appears that the note indebtedness of \$25,000 consists of two notes for \$12,500 each, one of which was issued to Harry L. Person and the other to E. J. Whitney, the corporation's principal stockholders. It is of record in this proceeding that Harry L. Person still holds the note issued to him, while E. J. Whitney has assigned his note to Mrs. E. J. Whitney.

We do not believe that the transfer of the properties should be authorized unless the two notes to which reference has been made are returned to the corporation and canceled. The proposed cancellation of \$25,000 of stock, assuming that such cancellation can be legally effected, will not put the corporation in as favorable a position as it was prior to the purchase of the Nelson properties.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of public utility property from Consolidated Water and Development Company to Benjamin Franklin Nelson

and Elizabeth Nelson, a public hearing having been held before Examiner Williams and the Railroad Commission being of the opinion that such transfer should not be authorized unless there be surrendered to the corporation and canceled by it, the two notes referred to in the foregoing opinion.

It is hereby ordered, that upon being notified by the Railroad Commission that said Commission has received a duly verified report from Consolidated Water and Development Company showing that the two notes, aggregating \$25,000 referred to in the foregoing opinion have been canceled, Consolidated Water and Development Company may transfer the public utility water system known as the Melvin Place Water Plant, to which reference is made in the foregoing opinion, to Benjamin Franklin Nelson and Elizabeth Nelson.

The authority herein granted is subject to further conditions as follows:

1. Benjamin Franklin Nelson and Elizabeth Nelson shall advise the Commission of the exact date upon which they acquired the possession of the Melvin Place Water Plant and shall file with the Commission, within thirty days after execution, a certified copy of the deed of conveyance.

2. The authority herein granted to transfer properties is not to be construed as a finding of value of such properties, for the purpose of fixing rates, or for any purpose other than this transfer.

3. Under the authority herein granted, no properties may be transferred after July 1, 1925.

Dated at San Francisco, California, this tenth day of March, 1925.

DECISION No. 14648.

IN THE MATTER OF THE APPLICATION OF CLAREMONT DOMESTIC WATER COMPANY, FOR THE PRIVILEGE OF ISSUING ADDITIONAL BONDS IN THE AMOUNT OF SEVENTEEN THOUSAND DOLLARS TO REIMBURSE ITS TREASURY FOR MONEY SPENT IN SINKING AND EQUIPPING NEW WELLS AND TO TAKE UP ALL PRESENT INDEBTEDNESS OF THE COMPANY.

Application No. 10863.

Decided March 10, 1925.

George S. Sumner, for Applicant.

BY THE COMMISSION.

OPINION.

Claremont Domestic Water Company asks permission to issue and sell at par \$17,000 of its first mortgage 6 per cent bonds due March 1, 1954, and use the proceeds to reimburse its treasury for moneys spent in sinking new wells and equipping same, and to pay notes issued to secure funds for construction purposes.

By Decision No. 13340, dated March 29, 1924, the Commission authorized the company to issue and sell at par \$38,000 of its first mortgage 6 per cent bonds. It is of record in this proceeding that all of such bonds have been sold and the proceeds used for the purposes indicated in the Commission's order.

The company has outstanding, according to the testimony, \$100,000 of capital stock, \$38,000 of bonds and \$10,000 of notes.

On account of the continued dry weather and a possible lack of water supply, applicant has concluded to expend additional moneys to improve its well No. 1 and to sink and equip a new well. Too, the general construction expenses of the company have been greater than anticipated at the time the Commission considered the application for permission to issue \$38,000 of bonds. It is of record that the company has since bought pipe costing \$4,600, new pumping equipment costing \$2,200, made improvements on buildings costing \$340, made repairs to well No. 1 costing \$2,553.65, expended on its new well (well No. 5) \$3,700, and purchased new meters costing \$1,870.64. The cost of a new pump and additional expenses to complete and equip its new well are estimated at \$6,500. The actual or estimated expenditures not financed through the issue of bonds or stock, amount to \$21,764.29. To finance part of this expenditure, applicant asks permission to issue and sell at par \$17,000 of bonds. The company reports that it has arranged for the sale of \$11,000 of bonds. Its representatives believe that all can be sold at par.

ORDER.

Claremont Domestic Water Company, having applied to the Railroad Commission for permission to issue \$17,000 of bonds, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such bonds is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Claremont Domestic Water Company be and it is hereby authorized to issue and sell at not less than par on or before September 1, 1925, \$17,000 face value of its first mortgage 6 per cent bonds due March 1, 1954, and use the proceeds to reimburse its treasury for moneys spent in sinking new wells and equipping the same, and to pay notes issued to secure funds for construction purposes, to which reference is made in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

1. Claremont Domestic Water Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the

twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this tenth day of March, 1925.

DECISION No. 14656.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, AN ELECTRICAL CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF FOUR HUNDRED SIXTY-NINE THOUSAND EIGHT HUNDRED DOLLARS PAR VALUE, FIRST AND REFUNDING MORTGAGE BONDS.

Application No. 10906.

Decided March 12, 1925.

P. R. Ferguson, for Applicant.

BY THE COMMISSION.

OPINION.

In this application The Southern Sierras Power Company asks permission to issue and sell, at not less than 85 per cent of face value plus accrued interest, \$469,800 of its series "C" first and refunding mortgage 6 per cent bonds due January 1, 1965, for the purpose of financing in part the cost of extensions, additions and betterments to its properties between September 1, 1924, and December 31, 1924.

The application shows that The Southern Sierras Power Company has issued, and has outstanding, bonds under two mortgages; a first mortgage executed as of September 1, 1911, to secure the payment of an authorized issue of \$5,000,000 of 6 per cent bonds due 1936, and a first and refunding mortgage of the open-end type executed as of January 1, 1915, to secure the payment of first and refunding mortgage 6 per cent bonds due 1965. In addition, applicant has assumed the payment of bonds of Coachella Valley Ice and Electric Company dated January 1, 1912, payable serially in annual amounts of \$15,000 during the period from 1937 to 1956, with interest at 6 per cent.

As of December 31, 1924, applicant reports its outstanding bonded debt as \$10,446,500, which consists of the following:

First mortgage bonds.....	\$2,489,500 00
First and refunding mortgage bonds:	
Series "A," dated January 1, 1915.....	\$2,340,000 00
Series "B," dated December 1, 1920.....	5,000,000 00
Series "C," dated October 1, 1924.....	317,000 00
Total first and refunding mortgage bonds.....	7,657,000 00
Coachella Valley Ice and Electric Company bonds.....	300,000 00
Total	\$10,446,500 00

8-36855

In addition to its outstanding bonds, the company reports advances from affiliated companies of \$500,000, notes and accounts payable of \$3,993,449.74 and other current liabilities of \$232,274.25. Its capital stock outstanding is reported as \$5,000,000, consisting of 50,000 shares of the par value of \$100 each, all common.

Under the first and refunding mortgage applicant may issue its bonds up to 85 per cent of the cost of additions and betterments. Heretofore, the Commission has authorized the company to finance, in part, capital expenditures made prior to September 1, 1924. This application is made for permission to issue additional series "C" bonds on account of expenditures made between September 1 and December 31, 1924. During this period the company reports construction expenditures of \$552,805.28, 85 per cent of which is approximately \$469,800. The expenditures to be thus financed in part with proceeds from the sale of the bonds, permission to issue which is herein requested, are shown in Exhibit "C" attached to the petition. In addition to these expenditures it is reported that approximately \$1,000,000 will be expended for capital purposes during 1925, although this amount has not been reported to the Commission in detail.

The company reports that it intends to sell its bonds to The Nevada-California Electric Corporation, which company owns all the outstanding stock of applicant, excepting director's shares. The bonds thus purchased by The Nevada-California Electric Corporation are used by that company as collateral as part of the security for bonds issued under its first lien mortgage. The proceeds from the bonds herein applied for are placed to the credit of applicant and drawn down by it from time to time as it proceeds with its construction program.

The company asks permission to sell its bonds at not less than 85 per cent of face value plus accrued interest. After giving consideration to the record and to financial statements filed by applicant, we are of the opinion that the company should receive not less than 88 for its bonds.

ORDER.

The Southern Sierras Power Company having applied to the Railroad Commission for permission to issue and sell \$469,800 of bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale of bonds is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The Southern Sierras Power Company be and it is hereby authorized to issue and sell on or before June 30, 1925, at not less than 88 per cent of face value plus accrued interest, \$469,800

of its series "C" first and refunding mortgage 6 per cent bonds due January 1, 1965, and to use the proceeds to finance in part the cost of the extensions, additions and betterments to which reference is made in the opinion which preceded this order.

The authority herein granted is subject to further conditions as follows:

1. Only such expenditures as are properly chargeable to fixed capital accounts under the uniform system of accounts prescribed by the Commission may be financed with the proceeds obtained from the sale of the bonds herein authorized to be issued and sold.

2. Applicant shall file with the Commission as soon as available a copy of its 1925 construction budget.

3. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$470.

Dated at San Francisco, California, this twelfth day of March, 1925.

DECISION No. 14657.

IN THE MATTER OF THE APPLICATION OF THE EASTMONT WATER COMPANY, A CORPORATION, FOR A PERMIT TO CHARGE A FLAT RATE OF ONE DOLLAR AND FIFTY CENTS TO THE CONSUMERS FOR THE USE OF WATER.

Application No. 10725.

Decided March 13, 1925.

Jerome H. Kann, for Applicant.

SEAVEY, Commissioner.

OPINION.

In this proceeding the Eastmont Water Company, a corporation, engaged in the public utility business of supplying water for domestic purposes to consumers in and in the vicinity of Eastmont Tract, Los Angeles County, asks for authority to increase its rates.

The application alleges in effect that the company has gone to considerable expense in installing a new 100,000-gallon steel storage tank and in enlarging and relocating its water mains with the result that service conditions have been materially improved; that applicant has heretofore on December 4, 1923, been authorized by the Railroad Commission to charge a flat rate of \$1.50 per month for water service,

but actually put into effect a lower rate of \$1 per month, and that this present rate does not yield sufficient revenues to pay operating and maintenance expenses. The Commission is therefore requested to restore the flat rate of \$1.50 per month formerly authorized.

A public hearing in this matter was held at Los Angeles after all interested parties had been duly notified and given an opportunity to be present and be heard.

The water supply for this system is obtained from two deep wells located in separate parts of the tract. Water is pumped into a new steel tank of 100,000 gallons capacity and distributed by gravity to approximately 400 consumers.

On December 4, 1923, the Railroad Commission in its Decision No. 12900 authorized this company to charge a schedule of rates which is in part as follows:

Monthly Meter Rates.

0 to 500 cubic feet, per 100 cubic feet.....	\$0 20
500 to 1,000 cubic feet, per 100 cubic feet.....	15
1,000 to 5,000 cubic feet, per 100 cubic feet.....	12
Over 5,000 cubic feet, per 100 cubic feet.....	06

Monthly Minimum Payments.

For service $\frac{3}{4}$ -inch diameter or less.....	\$1 00
For service 1-inch diameter	1 25
For service 1 $\frac{1}{2}$ -inch diameter	1 75
For service 2-inch diameter	2 25

Monthly Flat Rates.

For residence of five rooms or less.....	\$1 00
For each additional room	10
For each bath tub	25
For each toilet	25
For each garage and one automobile.....	25
For each additional automobile	15
Sprinkling or irrigation of lawns or gardens, for each month for which water is used, per 100 square feet irrigated.....	05
Monthly minimum flat rate	1 50

The rates authorized by the Commission were never placed in effect by the company, which proceeded to charge only a flat rate of \$1 per month for all service rendered.

The Eastmont Water Company desires the Commission to reestablish the former schedule of rates authorized, substituting for the flat rates the following:

Monthly flat rate, per consumer.....	\$1 50
Monthly irrigation rate for water used on a lot not occupied by consumer, per hundred square feet	05

The evidence indicates that this company's maintenance and operating costs for the past year have amounted to \$6,200 exclusive of depreciation and general office expenses, and that the revenues receivable during the same period were \$4,547, reflecting an operating loss in excess of \$1,653.

The applicant at this time does not desire to receive any return by way of interest on its investment, which it claims now exceeds the sum of \$52,000, but feels that it should derive sufficient revenues to meet the reasonable and necessary operating expenses and depreciation.

In the past there has been considerable complaint about the poor quality of water served and the unsatisfactory pressures which existed on the system. However, the erection of the new steel tank and the replacing of many of the old pipe lines has enabled the company to improve the quality of the water, increase the pressure, and to render reasonably good service at all times.

The evidence shows that certain consumers, cooperating with the Eastmont Chamber of Commerce, made a house to house canvass in the territory served, to determine the public sentiment regarding the proposed increase in water rates. This investigation revealed the fact that a great majority of the consumers favored the granting of the application.

It is apparent that the present rates do not yield the Eastmont Water Company sufficient revenues to meet the bare costs of maintenance and operation, and that the company is entitled to the relief prayed for.

The following form of order is submitted:

ORDER.

Eastmont Water Company, a corporation, having applied to this Commission for permission to revise its rate schedule, a public hearing having been held thereon, the matter having been submitted, and the Commission being fully informed in the matter:

It is hereby found as a fact that the rates now charged by Eastmont Water Company, a corporation, for water delivered to its consumers, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

Basing the order upon the foregoing finding of fact and upon the further statements of fact set out in the preceding opinion;

It is hereby ordered, that Eastmont Water Company, a corporation, be and it is hereby authorized to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged all consumers in and in the vicinity of Eastmont, Los Angeles County, for all water delivered subsequent to March 31, 1925:

Metered Service.

Monthly meter rates—

0 to 500 cubic feet, per 100 cubic feet.....	\$0 20
500 to 1,000 cubic feet, per 100 cubic feet.....	15
1,000 to 5,000 cubic feet, per 100 cubic feet.....	12
Over 5,000 cubic feet, per 100 cubic feet.....	06

Minimum monthly payments—

$\frac{5}{8}$ or $\frac{3}{4}$ -inch meter -----	\$1 00
1-inch meter -----	1 25
1 $\frac{1}{2}$ -inch meter -----	1 75
2-inch meter -----	2 25

NOTE.—Each of the foregoing “minimum monthly payments” will entitle the consumer to that quantity of water which the minimum monthly payment will purchase at the foregoing “monthly meter rates.”

Public use—

For street sprinkling or sewer flushing, per 100 cubic feet ----- \$0 06

Meters may be installed at the option of the consumer or the utility. When installed at the option of the utility the entire cost of the meter and installation shall be borne by the utility. When installed at the option of the consumer a deposit may be required, such deposit to be returned to the consumer as a credit on monthly bills for water consumed at the rate of 1/20 of the deposit. The following deposits may be required:

$\frac{5}{8}$ -inch meter -----	\$15 00
$\frac{3}{4}$ -inch meter -----	20 00
1-inch meter -----	25 00
1 $\frac{1}{2}$ -inch meter -----	45 00
2-inch meter -----	70 00

Monthly Flat Rates.

Per consumer -----	\$1 50
Irrigation use on lot not occupied by a consumer, per 100 square feet irrigated	0 05

It is hereby further ordered, that Eastmont Water Company, a corporation, be and it is hereby directed to file within thirty (30) days from the date of this order, rules and regulations governing relations with its consumers, said rules and regulations to become effective upon their acceptance for filing by the Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of March, 1925.

DECISION No. 14658.

IN THE MATTER OF THE APPLICATION OF THE WESTERN WAREHOUSE AND TRANSFER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF STOCK.

Application No. 10857.

Decided March 13, 1925.

SECURITY ISSUES—STOCK—CONTROL OF CORPORATION.—The Commission reaffirms its previous attitude against authorizing the issue of stocks for the purpose of giving control of the corporation to individuals who contribute intangibles. Those who pay cash for stock should control the affairs of a corporation rather than those who transfer to the corporation, in exchange for stock, intangible property values such as franchise rights, good will and going concern value,

Dana R. Weller, for Applicant.

SHORE, Commissioner.

OPINION.

The Railroad Commission is asked to make an order authorizing Western Warehouse and Transfer Company to issue 200 shares (\$20,000 par value) of its 8 per cent cumulative preferred stock and 1975 shares of common stock "without nominal value" to George F. Schneider in exchange for the transfer and assignment to applicant of the assets and good will of the business heretofore, and now, conducted by said George F. Schneider; and also to issue and sell at par for cash 1050 shares (\$105,000 par value) of 8 per cent cumulative preferred stock at \$100 per share and issue to the purchasers of such preferred stock, one share of common stock to each two shares of preferred stock so purchased.

The articles of incorporation of the Western Warehouse and Transfer Company provide that the capital stock of the corporation shall be divided into 3750 shares of two classes, to wit: 1250 shares of 8 per cent cumulative preferred (par value per share \$100) and 2500 shares of common stock of no nominal or par value.

Under applicant's proposal George F. Schneider is to receive 58 per cent of the number of shares of stock to be issued in exchange for tangible assets valued at \$25,000, whereas the purchasers of the preferred stock who are to be called upon to invest \$105,000 get but 42 per cent of the shares of stock sought to be issued.

It is admitted that the reason for the issue of the no par value stock in the amount requested is to vest the control of the corporation in George F. Schneider. It is argued that inasmuch as he is willing to transfer to the corporation his warehouse and transfer property, he should be given control of the company. However, to acquire a new warehouse and provide the corporation with necessary-working capital, it asks authority to sell \$105,000 par value of 8 per cent preferred stock for \$105,000 cash. In other words, so far as tangible assets are concerned, George F. Schneider will contribute about 20 per cent of the tangible assets and get 58 per cent of the number of shares of stock issued, while the purchasers of the \$105,000 par value of stock contribute about 80 per cent of the tangible property and get but 42 per cent of the shares of stock issued.

The records of the Commission show that it has repeatedly denied requests for permission to issue stock for control purposes. It has followed the policy that those who purchase stock and pay cash therefor should control the affairs of a corporation rather than those who transfer to the corporation in exchange for stock, intangible property values, such as franchise rights, good will and going concern value. True, heretofore stock sought to be issued carried a par value, but the

mere fact that stock may be without par value, does not alter the situation. In the present instance, the end sought through the issue of no par stock, is control of the corporation. George F. Schneider, as said, through furnishing less than 20 per cent of the tangible capital, is to be given such control. I believe that the policy of the Commission not to authorize the issue of stock for control purposes is sound and have no intention to recommend a departure therefrom in this proceeding.

I believe that this application should be denied without prejudice and herewith submit the following form of order:

ORDER.

Western Warehouse and Transfer Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Commission being of the opinion that the application, for the reasons stated in the foregoing opinion, should be denied; therefore,

It is hereby ordered, that the above entitled application of Western Warehouse and Transfer Company for permission to issue stock be and the same is hereby denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of March, 1925.

DECISION No. 14659.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON SERVICE AND REMOVE ITS TRACKS ON SUNSET BOULEVARD FROM GARDNER JUNCTION WESTERLY TO END OF LINE, IN THE CITY OF LOS ANGELES, CALIFORNIA.

Application No. 10864.

Decided March 13, 1925.

C. W. Cornell and O. A. Smith, for Applicant.

Carl Bush, for Hollywood Chamber of Commerce.

Jess E. Stephens, City Attorney, by Milton Bryan, Assistant Attorney, for City of Los Angeles.

J. W. Walters, for Board of Public Utilities of the City of Los Angeles.

John A. Evans, for the John A. Evans Corporation.

K. K. Knapp, for West Hollywood Realty Board.

L. J. Durfy, for Sherman Chamber of Commerce.

C. H. Thompson, *in propria persona*.

SHORE, *Commissioner*.

OPINION.

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the abandonment and

removal of tracks on Sunset boulevard from Gardner Junction, which is the intersection of Sunset boulevard and Gardner street, thence westerly to the end of the line at a terminus at the intersection of Sunset boulevard and Laurel Canyon road, all in the city of Los Angeles and as more particularly shown in purple color on a blue-print map, marked "C. E. H. 8306," filed herein as a portion of the application.

A public hearing on this application was conducted at Los Angeles on March 5, 1925, at which time the matter was duly submitted and it is now ready for decision.

Applicant alleges that the reason for requesting the abandonment is that the business transacted over the line is not sufficient to pay the cost of operation and render a return on the investment; also that a bus service has been installed by the Los Angeles Motor Bus Company, said bus service performing the service formerly rendered by the rail line.

Mr. O. A. Smith, passenger traffic manager of applicant company, testified that the line for which authority for abandonment is herein sought is in poor physical condition, and that it is anticipated that the portion of Sunset boulevard in which it is laid will shortly be improved by a more modern type of paving—the boulevard now being improved by an oil macadam pavement. In the event of improved paving being undertaken a substantial expenditure would be required to rehabilitate the line with a type of construction suitable for modern paving.

Mr. Carl Bush, representing the Hollywood Chamber of Commerce, directed attention to the desirability of arranging for an assurance whereby no fares would be increased beyond those now applicable in general to the Hollywood community, and that arrangements should be made whereby fares in the district heretofore served by the line now proposed to be abandoned should at all times in the future remain on a parity with other Hollywood district fares. The present service is now given by the Los Angeles Motor Bus Company on the basis of a six cent local fare and a ten cent fare to the downtown or business section of Los Angeles. It appears that an application is now pending before the board of public utilities of the city of Los Angeles wherein the Los Angeles Motor Bus Company has petitioned for an increase in fare on the basis of a ten-cent local fare and a through fare of fifteen cents to the business district of Los Angeles. The applicant herein has also filed an application with this Commission for a certificate of public convenience and necessity to operate a motor bus service from Gardner Junction along Sunset boulevard, Canyon drive and Wilshire boulevard to the intersection of San Vicente boulevard, such operation paralleling the rail line herein sought to be abandoned. The fares

proposed by this application for the establishment of bus service would provide a local fare of six cents to Gardner Junction, from which point the one way fare via the rail line of applicant to Los Angeles is ten cents, a total of sixteen cents.

The rail service on the line herein sought to be abandoned was suspended by applicant in accordance with authority contained in this Commission's Decision No. 13235 on Application No. 9753, decided March 4, 1924. The opinion preceding the order in the above mentioned decision recites the facts presented to the Commission in support of the application and the following are extracts therefrom:

The portion of the line over which service is proposed to be suspended is .9 miles in length. Motor bus service paralleling the rail service is given on Sunset boulevard by the Los Angeles Motor Bus Company to the end of the line and applicant has been requested by the Board of Public Utilities of the City of Los Angeles to discontinue the operation of the rail service. The present schedule of service on the rail line between Gardner Junction and the end of the Laurel Canyon line is a fifteen-minute headway with a seven-and-one-half-minute headway during the morning and evening peak hours. The bus service operated by the Los Angeles Motor Bus Company is operated on a ten-minute headway and with a five-minute headway during the morning and evening hours.

It was shown that the average number of passengers per trip in each direction amounted to but 3.2, same being the result of a traffic check made during a 16-day period ending January 7, 1924.

It is apparent that the limited patronage of the rail line does not justify its continuance when a duplication of service is rendered by a bus line over the same route and on a more frequent schedule both at rush hours and throughout the balance of the day. The fare on the bus line is 6 cents from the end of the line to and including the Hollywood District and 10 cents to the downtown district of Los Angeles. Through service is also available without change on the bus line as against the change of cars required at Gardner Junction by the use of the rail line.

There was no protest to the granting of the application, it appearing that the representatives of the community served are in favor of the substituted bus service in that through service to the business portion of Los Angeles is thereby available and that with the frequency of service scheduled by the bus line the through service will be more attractive than the former through rail service which was discontinued some years ago. The cancellation of the school fares and commutation rates will not be objectionable as the bus line will transport children to the Hollywood High and Le Conte Junior High Schools in a more satisfactory manner, the route of the bus line being nearer to such schools than that of the rail line.

Careful consideration has been given to the position of the Hollywood Chamber of Commerce in its desire for a retention of a fare basis comparable with other portions of the Hollywood district and particularly as regards fares to and from the Los Angeles downtown or business district. I have considered the situation as presented in the instant application for abandonment as well as that shown in the previous application for suspension of service. It is obvious that service by the rail line cannot be rendered when competition by a parallel bus system reduced the patronage to an average of but 3.2 passengers per single trip. There is presented also in this proceeding the situation as regards the probability of paving being required on Sunset boulevard of a type superior to the present oiled macadam. It is reasonable

to assume that such paving program, if initiated, will require a modern type of construction which will necessitate a complete rehabilitation of the track with a different type of rail and expensive permanent construction. There is no evidence before the Commission which would indicate that the patronage to be accorded the applicant, were the previous order to be rescinded and the applicant required to restore the rail service, would meet the operating expenses irrespective of the items of depreciation and taxes, together with a reasonable return on a further capital investment which would be required if the track were to be rehabilitated in accordance with the requirements necessitated by a paving program. The matter of increased fares on the bus line operated by the Los Angeles Motor Bus Company is not one that can be determined by the Commission in this proceeding; moreover, the matter of fares on the proposed bus line for which the Pacific Electric Railway Company has filed an application for a certificate is not a matter to be determined herein, but will be determined by the Commission in its consideration of said application. It is, however, in evidence that the public has preferred the bus service to the rail service which was formerly furnished; that patronage was withdrawn from the rail line to such extent that authority was applied for to discontinue such rail service; that the board of public utilities of the city of Los Angeles requested the applicant to discontinue its rail service on Sunset boulevard to the terminus of the line for the reason that duplicate service was being rendered by the Los Angeles Motor Bus Company; that thereafter application was made to this Commission for suspension of car service and was granted after public hearing by Decision No. 13235, on Application No. 9753 (decided March 4, 1924).

In view of the above record, I am of the opinion and hereby find as a fact that the continued maintenance of the tracks herein sought to be abandoned is not justified, and I recommend the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission now being fully advised, and basing its order on the finding of fact as appearing in the opinion which precedes this order.

It is hereby ordered, that applicant, Pacific Electric Railway Company, a corporation, be and the same hereby is authorized to abandon and remove its tracks on Sunset boulevard from Gardner Junction to the end of the line at the intersection of Sunset boulevard and Laurel Canyon road, all in the city of Los Angeles, and over a route more particularly described as follows:

A single track commencing at the switch point just east of the intersection of Gardner street and Sunset boulevard; thence westerly along Sunset boulevard to end of track at Laurel Canyon road;

Also, that certain siding commencing at a point in above mentioned single track on Sunset boulevard, 1540 feet, more or less, westerly from above mentioned switch point; thence westerly along Sunset boulevard, 348 feet, more or less, to a point in above mentioned single track.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of March, 1925.

DECISION No. 14660.

IN THE MATTER OF THE APPLICATION OF RIO VISTA TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF SIXTEEN THOUSAND SIX HUNDRED DOLLARS PAR VALUE OF ITS COMMON CAPITAL STOCK.

Application No. 10783.

Decided March 13, 1925.

George F. West, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Rio Vista Telephone and Telegraph Company to issue \$16,600 of its common capital stock to reimburse its treasury on account of earnings invested in its properties and heretofore not capitalized and thereafter to distribute it to the holders of its outstanding stock as a stock dividend.

The record shows that Rio Vista Telephone and Telegraph Company was organized on or about May 19, 1893, with an authorized capital stock of \$30,000 divided into 300 shares of the par value of \$100 each, all common. At present \$4,150 of stock is outstanding which is reported held as follows:

George F. West	\$2,450 00
J. M. Sullivan	600 00
Willard Bethel	300 00
F. J. Kalber	300 00
John Cook	100 00
Julia Cook	100 00
L. P. Larsen	100 00
Ethel Valente	100 00
Edith West	100 00
Total.....	\$4,150 00

As of February 28, 1925, applicant reports its assets and liabilities as follows:

<i>Assets.</i>		
Plant and equipment -----		\$24,631 95
Intangibles -----	\$115 00	
Central office equipment -----	1,348 11	
Station equipment -----	2,444 43	
Exchange lines -----	2,969 24	
Toll lines -----	11,125 24	
General equipment -----	1,444 42	
Plant and equipment in service January 1, 1915 -----	5,185 51	
Cash -----		1,423 76
Accounts receivable -----		1,071 87
Materials and supplies -----		135 00
Total assets -----		\$27,262 58
<i>Liabilities.</i>		
Capital stock -----	\$4,150 00	
Accounts payable -----	840 72	
Accrued liabilities not due -----	100 00	
Reserve for accrued depreciation -----	1,601 43	
Other credit accounts—		
Appreciated value in fixed capital -----	3,781 68	
Surplus -----	16,788 75	
Total liabilities -----		\$27,262 58

By Decision No. 7832, dated July 9, 1920, (Vol. 18, Opinions and Orders of the Railroad Commission of California, page 532) the Commission adjusted applicant's rate schedule, using as a rate base the sum of \$24,300, which was said to represent the historical reproduction cost of the company's property as of October 16, 1919. As of the same date the historical reproduction cost less depreciation was reported at \$18,544, which amount subsequently was set up on the company's books. To the \$18,544 has been added the net cost of additions and betterments resulting in a total charge to plant and equipment of \$24,631.95.

It appears that the \$4,150 of stock now outstanding was issued prior to March 23, 1912, the effective date of the Public Utilities Act. From annual reports filed with the Commission, it appears that since that date but three dividends have been paid; one of 15 per cent in 1912; a second of 10 per cent in 1913; and the third of 10 per cent in 1924. It is reported, and the foregoing balance sheet indicates, that the surplus earnings, other than those distributed as dividends, have been retained in the company's business and invested in its assets.

As of February 28, 1925, the corporate surplus unappropriated was reported at \$16,788.77. In the opinion of applicant's officers, this amount represents the surplus earnings of the company invested in assets up to that date. After giving consideration to the record and to financial statements filed by the company, we are of the opinion that applicant should at this time be authorized to issue \$16,600 of stock for the reimbursement of its treasury. After such reimbursement,

applicant may, as permitted by law, distribute such stock to its present stockholders as a stock dividend.

ORDER.

Rio Vista Telephone and Telegraph Company having applied to the Railroad Commission for permission to issue \$16,600 of its common capital stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Rio Vista Telephone and Telegraph Company be and it is hereby authorized to issue, at par, on or before July 1, 1925, \$16,600 of its common capital stock to reimburse its treasury on account of earnings invested in properties prior to February 28, 1925.

The authority herein granted is subject to the following conditions:

1. Applicant may, after reimbursing its treasury, distribute the stock herein authorized to be issued to its present stockholders, as permitted by law as a stock dividend.

2. Applicant shall keep such record of the issue and delivery of the stock herein authorized as will enable it to file within thirty days after such issue and delivery a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this thirteenth day of March, 1925.

DECISION No. 14661.

IN THE MATTER OF THE APPLICATION OF GOODRICH BROTHERS
FOR PERMISSION TO SELL WATER TO PERSONS OCCUPYING
AND LIVING ON LOTS IN TRACT No. 6441, COUNTY OF LOS
ANGELES, STATE OF CALIFORNIA.

Application No. 10740.

Decided March 13, 1925.

H. B. Goodrich, for Applicants.

BY THE COMMISSION.

OPINION.

In the above entitled application Goodrich Brothers, a copartnership, ask that a certificate of public convenience and necessity be granted them to furnish water for domestic purposes to residents living in

Tract No. 6441, Los Angeles County, for which service they desire the Commission to establish a flat rate charge of \$1.50 per month for each consumer.

A public hearing in this matter was held before Examiner Williams at Los Angeles, after due notice thereof had been given so that all interested parties might appear and be heard.

The testimony shows that this water system was installed to aid in the sale of lots in this tract, and that service is now being rendered to ten consumers at the rate of \$1.50 per month. The water supply is obtained from the Hawthorne Municipal Water Works through a master meter at the city's regular rates, and is thereafter distributed by applicants.

The flat rate of \$1.50 for each domestic consumer, as requested by applicant, is reasonable and compares favorably with the rates charged by other public utilities serving water and operating under like conditions. However, as the water supply for this system is purchased through a meter, it is thought advisable to establish a meter rate which may be applied in cases of an excessive use of water by any of the consumers.

It appears that the pipe lines were installed in this tract prior to acceptance by the county authorities, so that a franchise is unnecessary. There is no other public utility serving water in the immediate vicinity and no one appeared to contest the granting of the application. It is evident, therefore, that this application should be granted.

ORDER.

Application having been made as entitled above, a public hearing having been held thereon, the matter having been duly submitted and being now ready for decision;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that Goodrich Brothers, a copartnership, construct and operate a water system for the purpose of supplying water for domestic purposes in Tract No. 6441, Los Angeles County; and

It is hereby ordered, that Goodrich Brothers be and they are hereby authorized and directed to file with the Railroad Commission of the State of California, within twenty (20) days from the date of this order, the following schedule of rates to be charged for all service rendered subsequent to March 31, 1925:

Monthly Flat Rates.

For each house with five rooms or less	\$1 50
For each additional room	15
For each barn with one horse, cow or goat	20
Irrigation of lawns, gardens or shrubbery, per square yard	005

Monthly Meter Rates.

For 500 cubic feet or less.....	\$1 25
From 500 to 1,000 cubic feet, per 100 cubic feet.....	20
From 1,000 to 2,000 cubic feet, per 100 cubic feet.....	15
All over 2,000 cubic feet, per 100 cubic feet.....	12

Minimum Monthly Charges.

$\frac{5}{8}$ -inch meter	\$1 25
$\frac{3}{4}$ -inch meter	1 75
1-inch meter	2 75
1 $\frac{1}{4}$ -inch meter	5 00
2-inch meter	7 50
3-inch meter	15 00

NOTE.—Each of the foregoing “minimum monthly charges” will entitle the consumer to the quantity of water which that minimum charge will purchase at the monthly meter rates set out above.

Meters may be installed at the option of the utility or the consumer. If installed at the option of the utility the entire cost thereof shall be at its expense. If installed at the option of the consumer the actual cost thereof shall be deposited by the consumer with the utility and the amount so deposited shall be returned to such consumer as credits on the monthly bills for water consumed at the rate of 50 per cent of such monthly bills, provided, however, that the maximum deposit required for $\frac{5}{8}$ -inch meters shall not exceed the sum of \$15.

It is hereby further ordered, that Goodrich Brothers be and they are hereby directed to file with the Railroad Commission, within thirty (30) days from the date of this order, rules and regulations governing the distribution of water to consumers, said rules to become effective upon their acceptance by this Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this thirteenth day of March, 1925.

DECISION No. 14662.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING APPLICANT TO ISSUE FOURTEEN MILLION, THREE HUNDRED NINETY-NINE THOUSAND DOLLARS FACE VALUE OF ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS AND TO DEPOSIT AND PLEDGE SAID BONDS WITH THE MERCANTILE TRUST COMPANY (SAN FRANCISCO) UNDER AND IN ACCORDANCE WITH THE PROVISIONS OF APPLICANT'S FIRST AND REFUNDING MORTGAGE, DATED DECEMBER 1, 1920.

Application No. 10878.

Decided March 13, 1925.

R. W. Dural, for Applicant.

DECOTO, Commissioner.

ORDER.

Pacific Gas and Electric Company asks permission to issue and deposit with the trustee under its first and refunding mortgage

\$14,399,000 face value of its general and refunding mortgage 5 per cent bonds due January 1, 1942. The company reports that it has expended from December 1, 1923, to November 30, 1924, for the acquisition and construction of properties the sum of \$23,391,864.11, against which no general and refunding bonds have been certified by the trustee under the mortgage securing the payment of such bonds. Because of the expenditures to which reference has been made, and an expenditure of \$807.37, incurred previous to December 1, 1923, the company asks permission to issue \$14,399,000 of its general and refunding bonds, and deposit the same with the trustee under its first and refunding mortgage.

The Commission has considered the request of applicant and is of the opinion that such request should be granted and that the issue of the bonds is in accordance with the terms of the Public Utilities Act, therefore,

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and deposit on or before June 1, 1925, with the Mercantile Trust Company (of San Francisco) trustee under its first and refunding mortgage \$14,399,000 face amount of its general and refunding mortgage 5 per cent gold bonds due January 1, 1942, such general and refunding mortgage bonds to be deposited under and pursuant to the provisions of the company's first and refunding mortgage dated December 1, 1920.

The authority herein granted is subject to the following conditions:

1. Pacific Gas and Electric Company shall file with the Railroad Commission a report or reports, as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of March, 1925.

DECISION No. 14665.

IN THE MATTER OF THE APPLICATION OF EVANS TELEPHONE COMPANY, UNINCORPORATED, FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING THE ESTABLISHMENT OF CERTAIN CHARGES AND THE FILING OF RULES AND REGULATIONS PROVIDING THEREFOR.

Application No. 10896.

Decided March 13, 1925.

BY THE COMMISSION.
9-36855

ORDER.

WHEREAS, Evans Telephone Company having filed an application with this Commission requesting authority to file and place in effect certain rules and regulations relative to service charge for restoration of service, service installation charges, service connection charges, and charges for moves and changes, and other rates similar to those now in effect by other telephone utilities; and

WHEREAS, This Commission found certain rules and regulations to be reasonable in its Decision No. 8146 (18 C. R. C. 912), dated September 24, 1920, and in its Decision No. 13478 (24 C. R. C. 854), dated April 24, 1924; and there appearing no good reason why applicant should not now file and place in effect similar rules and regulations;

It is hereby ordered, that Evans Telephone Company be and it is hereby authorized to file with this Commission, effective as of May 1, 1925, the following rules and regulations:

A. Moves and Changes.

Moves and changes of telephone apparatus and wiring on the subscriber's premises, at the request of the subscriber, will be made by the company, and the charges for such work will be as follows:

1. Telephone Sets.

- | | |
|--|--------|
| (a) Moving from one location to another..... | \$3 00 |
| (b) Change in type or style..... | 1 50 |

2. Other Equipment and Wiring.

Charges for moving or changing of equipment or wiring, other than that included under 1 above, will be an amount equal to the actual cost of labor and material involved.

3. Maintenance.

The charges specified above do not apply if the changes or moves are initiated by the telephone company and required for the proper maintenance of the equipment or service.

4. Change in Class of Service.

The charges specified above do not apply if the changes are required because of a change in type, class or grade of service.

B. Service Connection Charges.

Service connection charges provided for hereunder are payable at the time application for the particular service or facility is made and are in addition to the regular schedule of rates.

Service connection charges apply to all exchange service and facilities, in accordance with the following provisions:

1. New service.

Individual and party lines:

Business and residence, each station.....	\$3 50
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Extension stations:

Business and residence, each station.....	1 50
---	------

2. Additional service.

Individual and party lines:

Business and residence, each station.....	\$3 50
---	--------

Extension stations:

Business and residence, each station.....	1 50
---	------

3. Service where instrumentalities are already in place on subscriber's premises.

Business and residence, subscribers' exchange service, except
farmer line service, one or more units----- \$1 50

A change in location or type of instrumentalities made at subscriber's request is subject to the charges for moves and changes provided the total charges for such moves and changes shall not exceed the charges for the initial establishment of the subscriber's complete service and facilities.

Service connection charges do not apply under the following conditions:

Business service—

- (a) When service is assumed by a receiver or by trustee, executor or administrator of an estate.
- (b) Change in the name of the business concern (*i. e.*, individual, partnership, syndicate or corporation) when there is no complete change in ownership or management.

Residence service—

- (a) When service is assumed by a member of the former subscriber's family located in the same premises.
- (b) When there is no change in the individuality of the recipient.
- (c) When the subscriber's name has been changed by marriage or court order.
- (d) When an employer has arranged for service in the residence of his employee and the latter desires personally to assume the responsibility for the service or when the responsibility for the service of an employee is to be assumed by his employer.

C. Definitions, rules and regulations governing telephone service, similar to those definitions, rules and regulations contained in this Commission's Decision No. 13478, except as modified in Sections A and B above, and as may be approved by this Commission.

Provided that said rules and regulations be filed with this Commission within thirty (30) days of the date of this order.

Dated at San Francisco, California, this thirteenth day of March, 1925.

DECISION No. 14676.

BAY CITIES TRANSPORTATION COMPANY, A CORPORATION,

vs.

E. H. WARREN, WARREN TRANSPORTATION COMPANY, L. M. BERTAUD, J. P. BARNAULE, HARRY HOFFMAN, A. DIXON, JOHN DOE AND RICHARD DOE.

Case No. 2079.

IN THE MATTER OF THE SUSPENSION OF FREIGHT RATES BETWEEN SAN FRANCISCO, OAKLAND AND ALAMEDA, AS SET FORTH IN LOCAL FREIGHT TARIFF, No. 2, C. R. C. No. 2, OF THE WARREN TRANSPORTATION COMPANY.

Case No. 2084.

IN THE MATTER OF THE APPLICATION OF E. H. WARREN, DOING BUSINESS UNDER THE NAME OF WARREN TRANSPORTATION COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE VESSELS ON THE INLAND WATERS OF THE STATE OF CALIFORNIA BETWEEN POINTS ON THE SAN FRANCISCO WATER FRONT AND OTHER POINTS ON SAN FRAN-

FRANCISCO BAY AND TRIBUTARIES, INCLUDING THE CITY OF OAKLAND, CALIFORNIA.

Application No. 10841.

Decided March 17, 1925.

Douglas Brookman, for E. H. Warren et al.
Harvey H. Sanborn, for Bay Cities Transportation Company.SQUIRES, *Commissioner*.**OPINION.**

These three proceedings, involving the same issues, were, by stipulation, heard together and will be disposed of in one opinion and order.

The Bay Cities Transportation Company, a corporation, by complaint filed December 11, 1924, Case No. 2079, alleges that the defendants, E. H. Warren, Warren Transportation Company, L. M. Bertaud, J. P. Barnacle, Harry Hoffman, A. Dixon, John Doe and Richard Doe, were not operating vessels in good faith between San Francisco and Oakland under tariffs lawfully on file with the Railroad Commission of California prior to August 16, 1923, and that therefore a certain tariff designated Warren Transportation Company Local Freight Tariff No. 2, C. R. C. No. 2, issued December 1, 1924, made effective December 31, 1924, and naming rates for the transportation of freight on San Francisco Bay and its tributaries, and particularly specific rates between the cities of San Francisco, Oakland and Alameda, violate section 50 (*d*) of the Public Utilities Act. An order is sought from the Commission requiring defendants to cease and desist from continuing the alleged unlawful operations; also an order suspending and canceling Warren Transportation Company Freight Tariff No. 2, C. R. C. No. 2, in so far as that tariff names rates for the transportation of freight between the city of San Francisco and the cities of Oakland and Alameda.

Case No. 2084 was instituted December 30, 1924, on this Commission's own motion, and in that case there was suspended items numbers 11, 12, 18, 20, 34 and 50, naming freight rates between the cities of San Francisco, Oakland and Alameda, published in Warren Transportation Company Local Freight Tariff No. 2, C. R. C. No. 2.

Application No. 10841 was filed February 16, 1925, by E. H. Warren, doing business under the name of Warren Transportation Company, for a certificate of public convenience and necessity to operate vessels between San Francisco, and other points on San Francisco Bay, including the city of Oakland. In that proceeding applicant states that in no way does it concede that it already has not the right to operate vessels between San Francisco and Oakland, but that the application is filed to forestall any technical conclusion of the Commission that it has no legal authority to operate between these communities.

A hearing was had February 25, 1925, and all matters and things having been duly submitted, the proceedings are now ready for an opinion and order.

It is the contention of defendant that under the name of E. H. Warren and Warren Transportation Company he has operated vessels on the inland waters of this state since December, 1915. Prior to July 27, 1917, when the Public Utilities Act was amended, it was not necessary for vessels operating between points on the said inland waters to file tariffs, unless the service rendered was regularly performed for compensation over regular routes. Following the amendment of the law many small operators filed tariffs, but it was not until the year 1920, when the Bay and River Boat Owners' Association was organized, that rates were published by practically all of these small irregularly operated vessels. It appears that the defendant, E. H. Warren, became a member of the Bay and River Boat Owners' Association, June 1, 1920, when he purchased the boat lines operated by a Mr. Frank Rossi. The tariff of the Bay and River Boat Owners' Association published rates applying only between points on San Francisco Bay and points on San Joaquin and Sacramento rivers south of Sacramento and west of Stockton. Subsequently, Warren withdrew from the Bay and River Boat Owners' Association and published his individual tariff, C. R. C. No. 1, effective May 1, 1923, which tariff established rates applying to freight transported between points on San Francisco Bay and points on the San Joaquin and Sacramento rivers south of Sacramento and west of Stockton. This Tariff No. 1 was canceled by Warren Transportation Company Tariff C. R. C. No. 2, effective December 31, 1924, which is the tariff in controversy in this proceeding, and particularly in connection with the items, naming rates applying to transportation between San Francisco and Oakland.

There was evidence introduced to the effect that when business was offered, service had been rendered between San Francisco and Oakland, but there was no testimony to show that such service was lawful and in compliance with tariffs on file with the Commission, as required by the Public Utilities Act. Defendant, it seems, recently operated a vessel between San Francisco and Oakland through an arrangement with the Alameda Transportation Company, whereby the former furnished the service, collected the latter company's published rates, and retained such moneys as its compensation. This manner of handling traffic under tariffs published by another company is, of course, not a lawful operation. It also appears the operations were conducted, under proper tariff authority, for a number of months in 1922 and 1923, between San Francisco, Napa and Vallejo. The evidence indicates that this service was abandoned because it proved unprofitable.

An exhibit was introduced by complainant showing that defendant had made a number of trips, October 16 to December 3, 1924, from San Francisco to the Parr Terminals and transported some 635 tons during those three months, using a vessel under contract to purchase, which was later returned to the owners.

A witness for the defendant testified that the principal steamship companies in San Francisco had been solicited and that they had offered substantial tonnage as soon as the Warren Transportation Company was competent to furnish a proper service. This evidence was met by complainant's witnesses, who maintained that the Bay Cities Transportation Company was rendering satisfactory service and that the tonnage, in all probability, could not and would not be secured by the Warren Transportation Company. This apparent conflict on the essential point involved in the case need not, I think, be reconciled. Public convenience and necessity must be shown by direct testimony. It can not be assumed to exist because of the statement of one or several persons that if certain facilities are offered they will utilize them. In all cases the burden is on the applicant to show public necessity, and if there is a substantial conflict in the evidence it must be resolved against him. This is required in order that the Commission may ascertain clearly from the record that public necessity does actually exist.

Washington et al. vs. Fairchild, 224 U. S. 510.

The record fails to show that defendant at any time has rendered a regular service between San Francisco and Oakland, if we except the illegal service performed for the Alameda Transportation Company. It is clear that no tariffs were on file authorizing defendant to perform this or any other service between those points on August 16, 1923, as required by amended paragraph (d) section 50, of the Public Utilities Act. Freight Tariff No. 1, C. R. C. No. 1, by its terms is purely a river tariff, effective between points on the bay on one hand and points on the Sacramento and San Joaquin rivers on the other hand.

I conclude and find, therefore, that neither E. H. Warren nor Warren Transportation Company was actually operating vessels in good faith between San Francisco, Oakland and Alameda, August 16, 1923, under tariffs lawfully on file with the Railroad Commission and, therefore, had no authority without a certificate of public convenience and necessity to publish in its Tariff C. R. C. No. 2, effective December 31, 1924, any rates covering transportation between San Francisco, Oakland and Alameda.

The items in Warren Transportation Company Tariff C. R. C. No. 2, under suspension in Case No. 2084, applying between San Francisco, Oakland and Alameda, having been published without legal authority, defendants should be required to cancel such items in their tariff on or before the thirtieth day of March, 1925.

No satisfactory evidence having been presented that there is public convenience and necessity for the operation by E. H. Warren, doing business under the name of Warren Transportation Company, of a freight service between San Francisco, Oakland and Alameda, Application No. 10841 should, therefore, be dismissed without prejudice.

In these proceedings the Commission is not called upon, and I do not assume here to pass upon, the legality of any of defendant's operating rights to points other than those between San Francisco, Oakland and Alameda.

I recommend the following form of order:

ORDER.

These proceedings having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had and basing its order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that E. H. Warren, doing business under the name of Warren Transportation Company, cease and desist from the operation of vessels as a common carrier between San Francisco, Oakland and Alameda.

It is hereby further ordered, that E. H. Warren cancel, on or before March 30, 1925, all rates contained in Warren Transportation Company Tariff No. 2, C. R. C. No. 2, applying between San Francisco, Oakland and Alameda.

It is hereby further ordered, that Application No. 10841 be dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of March, 1925.

DECISION No. 14684.

IN THE MATTER OF THE APPLICATION OF THE PEERLESS STAGES, INC., A CORPORATION, FOR AN ORDER AUTHORIZING AN INCREASE IN RATES.

Application No. 10743.

Decided March 18, 1925.

Harry A. Encell and James A. Miller, for Applicant.
A. L. Whittle, for Key System Transit Company, Protestant.

SQUIRES, Commissioner.

OPINION.

The Peerless Stages, Inc., a corporation, operating automobile passenger and express service between Oakland and San Jose and intermediate points, and between San Jose and Santa Cruz and intermediate points, has petitioned this Commission to fix just, reasonable and compensatory fares to be applied to the transportation of passengers over its line between Oakland and San Jose and points intermediate thereto.

A public hearing in this matter was held on February 11, 1925, and all interested parties having been given an opportunity to be present and to be heard, and the case having been submitted, is now ready for an opinion and order.

Applicant alleges that the present fares between Oakland and San Jose and intermediate points are noncompensatory, and proposes fares which, in its opinion, are just, reasonable and necessary to provide a sufficient income to meet operating expenses, fixed charges and net a reasonable return upon the value of the property devoted to the public service.

The operating lines of applicant are divided into the Oakland and the Santa Cruz divisions. The Oakland division comprises the territory between Oakland and San Jose, and the Santa Cruz division the territory between San Jose and Santa Cruz.

No increases are requested in the present fares on the Santa Cruz division nor in the territory between Oakland and Hayward, on the Oakland division. The increases proposed on the Oakland division would, in the aggregate, amount to approximately 20 per cent in the gross revenue. In some cases, the individual point to point increases are less than 20 per cent, in others considerably more, and practically all of the fares are on an arbitrary basis not measured by the actual length of haul.

It is also proposed to sell, for the price of twenty-five one-way fares, commutation books containing twenty-five round trips, to be used during the calendar month for which the book is issued and not good on Sundays and holidays.

Applicant contends that the establishment of commutation fares will decrease its revenue. However, since its president and general manager testified that in his judgment less than 5 per cent of the total number of passengers carried would be transported at these reduced rates, it is reasonable to expect that their establishment would, instead of decreasing, tend materially to stimulate its traffic. Hence, I can not find that the future revenue will be seriously curtailed by the proposed commutation fares.

Applicant submitted exhibits showing that for the period January 1, 1924, to September 30, 1924, inclusive, for both the Oakland and Santa Cruz divisions, the total transportation revenue was \$195,962.96 and

the total transportation expense \$195,523.95, a net operating income of \$439.01. For the Oakland division the transportation revenue was given as \$165,795.20 and the transportation expense \$169,712.64, an operating loss of \$3,917.44. For the Santa Cruz division the transportation revenue was given as \$30,167.76 and the transportation expense \$25,811.31, a net operating income of \$4,356.45.

A representative of the finance department of this Commission introduced an exhibit, being a statement from the books of applicant, covering the entire year 1924, which showed that for the Oakland and Santa Cruz divisions the total operating revenue was \$263,215.37, and the total transportation expense \$254,371.74, a net operating income of \$8,843.63. For the Oakland division the transportation revenue was \$225,914.27 and the transportation expense \$222,457.44, a net operating income of \$3,456.83. For the Santa Cruz division the transportation revenue was \$37,301.10 and the transportation expense \$31,914.30, a net operating income of \$5,386.80. The net profit for both operating and nonoperating departments for the year 1924 was \$3,078.34.

Applicant's statement covered only the period from January 1, 1924, to September 30, 1924, while the Commission's exhibit was for the entire calendar year of 1924; hence it follows that the latter is more comprehensive and, as such, should be given paramount consideration in arriving at just, reasonable and compensatory fares.

The applicant claimed a total investment as of September 30, 1924, of \$187,332.57, made up of intangibles \$5,000 and tangibles \$182,332.57, and on this amount asks for a return of 15 per cent. Included as a part of the tangible assets are thirty-two automobiles which, according to a check made by the representative of this Commission's finance department, are given a book value by the applicant of \$170,400.02, or a claimed average value per car of \$5,325. No satisfactory evidence was offered to establish the actual value of these automobiles. Of the thirty-two cars in operation, two were built in 1910; one in 1911; seven in 1912; four in 1913; four in 1914; three in 1916; two in 1917; one in 1918; three in 1922; two in 1923, and three in 1924, an average age of approximately eight years. It thus appears that with the exception of the last eight cars, all of the equipment was constructed in the year 1918 or prior thereto.

Applicant has charged into its operating expenses, as depreciation for the year 1924, a total of \$43,268.26, or at the rate of 25 per cent per annum, this notwithstanding the fact that it has in use cars built in 1910 and 1911, and that the average age of all of its automobile equipment is approximately eight years, indicating that at the rate of 25 per cent, the equipment, in the natural order of business, has already been depreciated twice out of the earnings. During the year 1924, before depreciation was deducted, but including maintenance charges

of \$54,946.77, applicant earned a profit of \$41,316.56 on the Oakland division, and \$10,795.33 on the Santa Cruz division, a total for the two divisions of \$52,111.89.

The evidence shows that the Peerless Stages, Inc., was created by a consolidation of the properties and operating rights of a number of individuals who commenced common carrier service in the years 1914 and 1915. The corporation secured its charter January 30, 1922, and commenced operations July 7, 1923.

Based on the number of passengers carried during the period January 1, 1924, to September 30, 1924, as shown in applicant's exhibit, and using that basis for the remaining three months of 1924, there would accrue under the proposed fares additional revenue in the amount of \$40,806.20, which added to the \$8,843.63 secured in 1924, would give a total net revenue of \$49,649.83, or a return of approximately 27 per cent on the claimed investment of \$187,332.57.

It appears to be certain that if the applicant was to begin service at the present time with new and up-to-date equipment, the total of the maintenance and depreciation charges would be very much less than that accumulated and charged into expenses during the year 1924.

It would be manifestly unfair to the traveling public to authorize the increases here proposed upon the basis of the results obtained during the past year, which results would have been entirely different under reasonable maintenance and depreciation charges. Consideration must also be given to the fact that 1924 was the first complete year of applicant's operations, and that it has not been in business for a sufficient length of time and under such conditions as to make its operations an infallible index of what it may do in the future; hence I must conclude that the twelve months' period just passed is not controlling and representative, and therefore should not be employed as a final basis for fixing fares for the future.

Protestant, the Key System Transit Company, filed an exception to the establishment of the proposed commutation fares between Oakland, San Lorenzo, Hayward and points intermediate thereto, on the grounds that it was now rendering adequate service and that its investment would be detrimentally affected. Statements were submitted showing the total number of passengers carried during the years 1922, 1923 and 1924, and the total number of commutation books sold during those years. I have made a careful study of these exhibits and the testimony given in connection with them, but fail to find that the establishment of commutation fares on the basis proposed by applicant would seriously affect protestant's revenue. Indeed, protestant's superintendent testified that in his opinion, the operation of private automobiles was in the past mainly responsible for the loss of this revenue.

The history of applicant's operations and that of its predecessors indicates that there has never been any strong desire to perform service between Oakland and Hayward and intermediate points in competition with the Key System Transit Company. In this application, it is not proposed to increase the one-way fares, although the same are now higher than the Key System Transit fares, but are on a lower basis than between other points on applicant's line.

In this connection, it seems proper to suggest that applicant in publishing commutation fares give careful consideration to its ability to handle this traffic, especially between Oakland and Hayward and intermediate points. If applicant can not give a constant and positive commutation service in the territory, monthly transportation should not be sold, for the record indicates that it is a common occurrence for the stages, especially westbound from San Jose to Oakland, to reach Hayward with no vacant seats.

Upon a careful study of this entire record, and taking into consideration the fact that applicant, at the time this proceeding was filed, had operated for only little more than a year; that it commenced operations with the old equipment of its predecessors, and that it has charged in the expense excessive amounts for depreciation, I conclude and find that the application has not been justified in its entirety.

Therefore I recommend that an order be entered authorizing an increase in the one-way adult fare between Oakland and San Jose from \$1 to \$1.10; also the one-way half fare from 50 cents to 55 cents; that the adult round-trip fare between the same points be increased from \$1.90 to \$2, and the round-trip half fare from 95 cents to \$1. Applicant should also be authorized to publish commutation fares.

I think the applicant should be required to submit to the Commission on or before the fifteenth (15th) day of each month for a period of six (6) months, a statement showing the number of passengers handled between all points on its lines, the earnings under the old and the new fares and the revenue and expenses. Information as to the revenue and expenses should be compiled in conformity with the Commission's order effective January 1, 1922, uniform classification of accounts.

I recommend the following form of order:

ORDER.

This application having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had and basing this order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the Peerless Stages, Inc., a corporation, be and it is hereby authorized to establish, within twenty (20) days from the date hereof, the following changes in its fares:

1. To increase the one-way adult fare between Oakland and San Jose from \$1 to \$1.10.
2. To increase the one-way half fare between Oakland and San Jose from 50 cents to 55 cents.
3. To increase the round-trip adult fare between Oakland and San Jose from \$1.90 to \$2.
4. To increase the round-trip half fare between Oakland and San Jose from 95 cents to \$1.

It is hereby further ordered, that the Peerless Stages, Inc., a corporation, be and it is hereby authorized to establish within twenty (20) days from the date hereof, commutation fares between Oakland, San Jose and intermediate points on the basis requested in its application, provided such fares are established only between points where adequate accommodations will be afforded the public.

It is hereby further ordered, that the Peerless Stages, Inc., a corporation, file with this Commission on or before the fifteenth (15th) day of each month for a period of six (6) months, after the new rates become effective, statement showing the number of passengers handled between all points on its lines, the earnings under the old and the new fares, and the revenue and expenses; the information as to revenue and expenses to be compiled in conformity with the Commission's order effective January 1, 1922, uniform classification of accounts.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of March, 1925.

DECISION No. 14687.

TABLE MOUNTAIN IRRIGATION DISTRICT

vs.

PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION.

Case No. 1998.

Decided March 23, 1925.

Raymond A. Leonard and Andrew J. Lloyd, for Complainant.
C. P. Cullen and R. W. DuVal, by *R. W. DuVal*, for Defendant.

BY THE COMMISSION.

OPINION.

In this proceeding Table Mountain Irrigation District, located in Butte County near the city of Oroville, and organized for the purpose of supplying water for irrigation purposes to lands within the district, has filed a complaint against the Pacific Gas and Electric Company, a corporation, engaged in the business, among other things, of distributing and selling water in certain sections of Butte County.

The complaint alleges in effect that the Pacific Gas and Electric Company, hereinafter referred to as defendant, is wasting water during the spring months of each year from the ditch system supplying its Lime Saddle and Coal Canyon power houses in Butte County; that the quantity of water wasted, varies from about seventeen cubic feet per second in the early spring to none at all about July first of average years. It is further alleged that Table Mountain Irrigation District, hereinafter referred to as complainant, and the Thermalito Irrigation District are jointly constructing a reservoir in Butte County, called Lake Wilenor Reservoir, waters from which will be conducted for a considerable distance through defendant's ditches and power houses to the point of diversion of the Thermalito Irrigation District; that the formation of complainant district contemplates and depends for its successful consummation upon the use of this excess of surplus water and can not irrigate its lands without it; that defendant at one time agreed to sell complainant 55 per cent of the surplus waters but now refuses to do so. Wherefore complainant asks that defendant be ordered to sell and supply complainant all or such part of the surplus waters as complainant may require, at a price to be fixed by the Railroad Commission.

Defendant, by way of answer, enters a general denial of all of the substantial allegations of the complaint, and in addition thereto alleges in effect that landowners along the defendant's ditches have made application for water, but have been refused for the reason that water is not available during the entire season; that there are lands adjacent to the ditches that are susceptible of irrigation, for which defendant must maintain a supply of water in case the owners thereof in the future, desire water, whereas the lands of complainant are located from two to six miles from the ditches and are widely scattered; that any surplus water existing in the ditches is subject to demand by the Thermalito Irrigation District in accordance with an agreement, dated April 25, 1923. Defendant therefore asks that the complaint be dismissed.

Public hearings in this proceeding were held before Examiner Satterwhite at Oroville and San Francisco after all interested parties had been duly notified thereof and given an opportunity to appear and be heard.

Defendant diverts water from the West Branch of the Feather River, and conveys it through its Miocene Ditch to the Lime Saddle and Coal Canyon power houses, and thereafter through its Powers ditch to a reservoir at the city of Oroville. Water is sold for irrigation and domestic purposes from these ditches to various consumers, including the city of Oroville and the Thermalito Irrigation District, which now purchases from the defendant 364 miner's inches of water in accordance with an agreement entered into under date of April 25, 1923, which also provides for the sale of additional water to the district if such water is available.

The complainant is an irrigation district duly organized and existing under the laws of the State of California, comprising an area of approximately 2040 acres of lands which are widely scattered, some being located adjacent to the defendant's ditches and others about six miles distant.

The complainant, acting jointly with the Thermalito Irrigation District, acquired by purchase from the defendant its Concow reservoir site and Cherokee ditch, and constructed a dam from which water may be delivered through said Cherokee ditch to defendant's Miocene ditch. It was proposed, when available, to use the excess or surplus water now wasted by defendant, for irrigation purposes on the lands of the two districts, supplementing this supply from the stored waters in the reservoir as the season advanced and the supply from surplus waters diminished. In this way a maximum flow could be maintained through defendant's ditches and power houses, enabling the operation thereof at full capacity and at the same time allowing complete utilization of the waters heretofore allowed to run to waste.

The total expenditure of this development amounts to about \$208,000, of which 55 per cent is to be paid by complainant and 45 per cent by the Thermalito Irrigation District. However, it appears that approval of complainant's bonds has been temporarily withheld by the Bond Certification Commission, with the result that the Thermalito Irrigation District having already acquired the distribution system in Thermalito Colony and being required to render service to its lands, found it necessary to proceed with the proposed plan alone. An agreement was therefore entered into with defendant under date of March 29, 1923, which provided for the sale of the Concow reservoir site and Cherokee ditch to the Thermalito Irrigation District, and also permitted the use of defendant's ditch system for the conveyance of the stored waters in Concow reservoir, and further provided for payment by defendant for the use of the waters for the generation of electric energy in its Lime Saddle and Coal Canyon power houses. This contract also provided for complainant's participation in the rights granted to the Thermalito Irrigation District when complainant was in a position to

proceed with its proposed development. However, no reference was made to surplus waters in this contract, and on April 25, 1923, another contract was entered into between defendant and Thermalito Irrigation District providing for the sale of the surplus waters in the Miocene ditch system to the Thermalito Irrigation District, but complainant was not made a party to this contract or mentioned as having a right to participate in the use of these waters. This contract contained a clause to the effect that the agreement should not be assignable by the district without the written consent of defendant, and that the water sold to the Thermalito Irrigation District should be used by it for sale to its consumers in the district.

Defendant contends that according to this contract of April 25, 1923, the surplus waters which complainant desires are subject to demand by the Thermalito Irrigation District; that with the limited supply of water now existing on the Miocene ditch system, defendant's first obligation is to supply the lands immediately contiguous to its ditches, rather than dedicate and sell water to complainant, whose lands are distant from defendant's ditches and outside of its service areas. In support of these contentions it was maintained that approximately 2000 acres of land are susceptible of irrigation from the defendant's ditches and located within the service area of the ditch system. However, the evidence indicates that there is comparatively little demand for this surplus water for the reason that it is not available throughout the entire growing period, and there are therefore very few crops which can be matured thereby with any certainty.

On October 26, 1923, complainant and the Thermalito Irrigation District entered into a contract whereby the surplus waters which the latter acquired the right to purchase from defendant under the terms of the above-mentioned agreement of April 25, 1923, were to be divided upon the basis of delivering 45 per cent thereof to Thermalito Irrigation District and 55 per cent to complainant. Defendant was not made a party to this contract, and apparently refused to give its consent to the sale of water outside the boundaries of the Thermalito District as required under the terms of its contract with the district. From the terms of the agreement made by and between the two irrigation districts and from the other evidence presented in this matter it is clear that the plans of organization of both districts from their inception contemplated the joint use of these surplus waters upon the basis of their actual requirements. The Thermalito District at the present time can not use more than 45 per cent of these waters. To permit the continued idle waste of 55 per cent of these valuable waters, which the complainant Table Mountain Irrigation District so vitally needs and which it is now ready and willing to put to immediate and beneficial use, for no better reason than vague possibilities of indefinite demands

for service which may or may not be made upon the defendant in the future, would be not only unreasonable but also a gross miscarriage of justice.

A careful consideration of the testimony leads to the conclusion that it is to the best interests of all parties concerned to allow complainant the use of such of the above-mentioned surplus waters as are not used by the Thermalito Irrigation District or subject to the demand and actual use by defendant's other consumers on the Miocene ditch system. It necessarily follows that any existing contracts or agreements heretofore approved by the Railroad Commission and which contain provisions in conflict herewith shall be considered as modified to the extent necessary to comply with the decision in this matter.

Very little testimony was introduced relative to the rate to be charged for this water. The contract between defendant and Thermalito Irrigation District provides for a wholesale rate of six cents per miner's inch day, which covers the sale of 364 miner's inches of water throughout the season, and also for the sale of excess water when it is available. Consumers along the ditch are charged ten cents per miner's inch for season flow and also for the excess or surplus waters. As complainant will take the water from defendant's ditches under practically the same conditions as Thermalito Irrigation District, it is entitled to the same rate, and the rate of six cents per miner's inch per twenty-four hours will be provided for in the following order.

ORDER.

Table Mountain Irrigation District having filed a complaint as entitled above, requesting that the Commission order the Pacific Gas and Electric Company, a corporation, to sell to said district the available excess or surplus waters that are wasted from the Miocene ditch system during the spring months, and for the establishment of a reasonable rate to be charged for this water, public hearings having been held, the matter having been submitted, and being now ready for decision:

It is hereby found as a fact that Table Mountain Irrigation District is entitled to participate in the use of such excess or surplus waters as exist or may exist in the Miocene ditch system of Pacific Gas and Electric Company, a corporation, and that a fair and reasonable rate to charge said district for this water is six cents (6¢) per miner's inch for twenty-four hours.

Basing its order upon the foregoing finding of fact and upon the further statements of fact contained in the preceding opinion;

It is hereby ordered:

1. That Pacific Gas and Electric Company, a corporation, be and it is hereby authorized and directed to deliver at a point or points to be mutually agreed upon, to Table Mountain Irrigation District upon

demand, such excess or surplus waters as exist or may exist in the Miocene ditch system after such waters have passed through Lime Saddle and Coal Canyon power houses and which waters are not required or necessary to supply said Pacific Gas and Electric Company's water consumers in the amounts to which they are entitled, actually pay for and put to reasonable and beneficial use.

2. That Pacific Gas and Electric Company, a corporation, be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following rate to be charged for all said excess or surplus waters delivered to Table Mountain Irrigation District from the Miocene ditch system under the authority granted herein.

Per miner's inch for twenty-four hours six cents (6¢).

One miner's inch shall be taken to be the equivalent of one-fortieth (1/40) of a cubic foot per second.

3. Any contract or other agreement heretofore approved, accepted for filing, or otherwise authorized by this Commission which may be in conflict with the terms and provisions of the order herein is hereby declared to be modified to the extent of such variance with this order.

4. The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this twenty-third day of March, 1925.

DECISION No. 14689.

CITY OF OAKLAND, A MUNICIPAL CORPORATION,

vs.

KEY SYSTEM TRANSIT COMPANY, A CORPORATION.

Case No. 1989.

Decided March 24, 1925.

Leon E. Gray, Attorney for City of Oakland.

M. C. Chapman, and *Morrison, Dunne and Brobeck*, by *Herman H. Phleger*, for Key System Transit Company.

William J. Locke, City Attorney, for the City of Alameda.

D. J. Hall, City Attorney, for the City of Richmond.

E. J. Sinclair, for the City of Berkeley.

G. A. Bahler, for the Oakland Chamber of Commerce.

Geo. E. Sheldon, Secretary-Manager Uptown Association.

James P. Koll, Executive Secretary, for the Down Town Property Owners' Association.

L. C. Hall, for Rockridge Improvement Club.

Mrs. W. T. Cleverdon, President, for California State Housewives' League.

C. P. Hibbard, for Parker Avenue Improvement Club.

J. S. Peterson, for Redwood Improvement Club.

E. H. Williams, City Attorney, for City of San Leandro.

Dr. N. J. Clecak, for West Oakland Booster's Club.

SEAVEY, Commissioner.

10-36855

OPINION.

Further hearing was held in the above entitled proceeding in Oakland before Commissioner Seavey on Wednesday, February 25, 1925.

At this time the joint engineering committee reported upon the progress of the studies on the problem of improving transportation in the down town congested district. Progress on the collection and analysis of data necessary to arrive at conclusions in these matters was reported, and it was announced that a final report would be ready in sixty days. It was pointed out that the studies had proceeded to a point that clearly indicated that new trackage and facilities would be necessary to relieve the down town congestion and increase the efficiency of the service.

Certain suggestions were made relative to the rerouting and extension of existing motor coach lines or proposed motor coach lines, and these are summarized as follows:

In Commission's Exhibit No. 1 it was recommended that a motor coach service be installed along Hopkins street, Excelsior boulevard, Santa Clara avenue, Moss avenue and Broadway from Fourteenth avenue and Hopkins street to Fortieth street and Broadway. Protests were made as to that portion of the route between Grand avenue and Broadway. It was set forth that this portion of the route should be changed to operate along Grand avenue to Piedmont baths and thence along some street between Twenty-second street and Twenty-seventh street to San Pablo avenue, and would hereby intersect all the street car lines between Oakland and Berkeley. If the route of this motor coach service were changed as suggested, it would parallel existing street car lines on Grand avenue for nearly one mile and leave the territory adjacent to Santa Clara avenue without adequate service. It would take a street car patron a longer time by motor coach than by the existing street car service in getting from Fourteenth avenue and Hopkins street to Twenty-fourth street or Twenty-sixth street and San Pablo avenue. Furthermore, Twenty-fourth street or Twenty-sixth street between Broadway and San Pablo avenue are not laid out straight, having an offset either at Telegraph avenue or Grove street. It is apparent that the traveling public will be better and more conveniently served by the route as outlined in Commission's Exhibit No. 1.

In Commission's Exhibit No. 1, it was also recommended that the Montclair-Glenwood motor coach should have its westerly terminus at the intersection of Piedmont avenue and Pleasant Valley avenue. Since starting the new operation on this route it has been found that running times can be so arranged as to allow the westerly terminus to be moved to Fortieth street and Piedmont avenue, thereby rendering a better and more convenient service to the patrons who live in the Montclair and Glenwood districts.

Requests were made to extend the Thirty-fifth avenue motor coach line from its present Hopkins street terminus northerly to Jordan road. The Thirty-fifth avenue motor coach operates between East Fourteenth street and Hopkins street, with one coach on a twenty-minute headway, with practically no lay-over time at the terminals. To extend the route to Jordan road, additional equipment would be necessary. It appears that the present equipment can not maintain its schedule even on the present route during the peak hours, and often loses a trip. Therefore, to serve the territory adequately, an additional motor coach should be placed in service during the morning and evening peaks of commuting and school travel, so as to provide a headway of fifteen minutes during these peaks. During the hours that the additional motor coach is operating, service can economically be given the district between Hopkins street and Jordan road. During the remainder of the day the present service should be maintained.

The Commission's transportation engineer pointed out that before an entirely satisfactory service could be given on Thirty-fifth avenue between Hopkins street and Jordan road, the quality of the road surface should be materially improved.

A request was received to establish a motor coach service along Thirty-fourth avenue and Peralta street, from East Fourteenth street to a point several blocks north of Hopkins street. Owing to the proximity of the street car lines on Fruitvale avenue and Hopkins street and a motor coach line on Thirty-fifth avenue, a service along this route does not appear to be justified at this time.

Further investigation of the Foothill boulevard motor coach route disclosed that along Eighty-second avenue a very limited service is performed and that Eighty-second avenue at present has such a narrow pavement width that serious operating difficulties are encountered, particularly during the wet season, not only by the motor coach, but also by privately-owned vehicles when passing the motor coach. The interval between trips on Eighty-second avenue is thirty minutes, which is not conducive to attracting traffic. A traffic check indicates that only about sixty passengers a day would be inconvenienced if the Eighty-second avenue service was discontinued. It appears that a much better service could be rendered on the Foothill boulevard route if this service were changed to Ninety-sixth avenue, and both motor coaches cover the entire route, giving a fifteen-minute headway. The territory adjacent to Ninety-sixth avenue is well built up and the street itself is in good condition for coach operation.

A request has been made for a motor coach service to the Sequoia Country Club and the Municipal Golf Links situated in the hills in the easterly part of Oakland and located on extensions of Jones avenue. Sequoia is 2.75 miles northerly from the intersection of Jones avenue

and Foothill boulevard, and the Municipal Golf Links are four miles distant from this intersection. The territory between the proposed terminals is not built up. It appears that this service would be operated at such a serious loss to the company as to be an undue burden on the total service of the company.

A motor coach route has been suggested to run from Fortieth street and San Pablo through the Lake district and Dimond district to and along Foothill boulevard to the eastern city limits. A portion of this suggested route along Foothill boulevard is at present served by motor coach, and another portion along Excelsior boulevard, Santa Clara avenue and Moss avenue has been recommended by the joint engineering committee for motor coach service. It appears that public convenience and necessity do not justify placing service on the remaining parts of the proposed route at this time.

SECOND PRELIMINARY ORDER.

Now, therefore, as a second preliminary order in this proceeding and specifically reserving for future consideration in any subsequent orders herein the subject of further improvement of the street car service of the Key System Transit Company;

It is hereby ordered, that the Key System Transit Company be and it is directed to make application to the proper governing or regulatory bodies, for the necessary franchises, permits or certificates of public convenience and necessity as may be required by law for the operation of motor coach service substantially along the routes hereinafter indicated.

1. The extension of the existing Montclair-Glenwood motor coach route so as to serve the district in the vicinity of Fortieth street and Piedmont avenue, beginning at Fortieth street and Piedmont avenue, thence via Piedmont avenue, Pleasant Valley avenue and Moraga road to Montclair (Hampton road) and from the intersection of Moraga road and Thorn road, via Thorn road and Duncan way to Broadway terrace.

2. The extension of the Thirty-fifth avenue motor coach line along Thirty-fifth avenue to Jordan road during the morning rush and school period and the afternoon school and rush period, a total time of approximately seven hours. During the remainder of the day the northerly terminus of this line to remain at Thirty-fifth avenue and Hopkins street.

3. The replacement of motor coach service along Foothill boulevard and Eighty-second avenue with a motor coach service described as follows:

Beginning at the intersection of Trask avenue and Ygnacio avenue, thence along Trask avenue, Foothill boulevard and Ninety-sixth avenue

to East Fourteenth street and return, giving a headway of not greater than fifteen minutes between the hours of 6 a.m. and 12 p.m.

It is hereby further ordered, that upon being granted the necessary franchises, permits and certificates of public convenience and necessity for said motor coach operation, that the Key System Transit Company be and it is hereby directed to provide service as herein authorized, except that this Commission reserves the right to make such further orders relative to the route, schedule and service as it may hereafter deem right and proper.

The effective date of this order shall be five (5) days from and after the date hereon.

Dated at San Francisco, California, this twenty-fourth day of March, 1925.

DECISION No. 14691.

IN THE MATTER OF THE APPLICATION OF WILLIAM AZEVEDO TO
OPERATE AUTO STAGE LINE BETWEEN HALF MOON BAY AND
SAN FRANCISCO, CALIFORNIA.

Application No. 9805.

Decided March 24, 1925.

J. E. McCurdy, for Applicant.

H. A. Bucell and *Jas. A. Miller*, for Coastside Transportation Company, Protestant.
Ivoris R. Deins, for Market Street Railway Company, Protestant.

DECOTO, *Commissioner*.

OPINION ON REHEARING.

In Decision No. 14476, dated January 27, 1925, and issued on Application No. 9805, this Commission denied to William Azevedo, authority to carry express on the auto stage line operated by him between San Mateo and Half Moon Bay and extend a service for the transportation of passengers and express to San Francisco, with no local service between San Mateo and San Francisco. On February 6, 1925, applicant herein petitioned for a rehearing and on February 14, 1925, this Commission issued its order granting a rehearing. On Friday, March 6, 1925, at 10 a.m., before Commissioner Decoto, a public hearing was held in the courtroom of the Commission in the State Building, San Francisco, California.

Sixteen witnesses offered testimony at the rehearing in support of the applicant's contention that public convenience and necessity required operation by him of an express service. Azevedo also testified as to the many calls made upon him to transport packages. The witnesses were almost a unit in agreeing that Coastside Transportation Company, holder of a certificate to transport express to Half Moon Bay via San Mateo, never gave any reliable, if any, express service. A

record book kept at the office of the American Railway Express Company in San Mateo for the signatures of Coastside drivers, the book to be signed when a Coastside driver called to pick up express matter, showed that for many days at a time the express office was not visited by Coastside representatives. Several of the witnesses testified that they did not know Coastside Company was in the express business. No office was maintained by Coastside Company at San Mateo.

Auditor T. W. Springett of Coastside Company testified that the amount of business offered did not justify operation of an express car via San Mateo.

It would appear, however, in view of the testimony of so many receivers and shippers of goods at Half Moon Bay, that there is need for an express service at least between Half Moon Bay and San Mateo, Azevedo also testified that he was being constantly called upon to transport merchandise. Half Moon Bay is a prosperous and growing community, a fact which should be borne in mind by carriers catering to the needs of the Half Moon Bay district.

As to the passenger service proposed by Azevedo, namely an extension of his present Half Moon Bay-San Mateo service to San Francisco, there seems to be no question that a certain percentage of the Half Moon Bay travelers bound for San Francisco prefer to travel via the Azevedo stage to San Mateo, thence by electric car, operated by the Market Street Railway Company, between San Mateo and San Francisco rather than make the trip up the coast on the stages of the Coastside Company, a choice made notwithstanding the Azevedo route requires a change at San Mateo, as against the through service of the Coastside Company. The Pedro Mountain grade, traversed by Coastside Transportation Company, was urged by a few as a reason for choosing the San Mateo route.

Mainly, however, it appears that the Market Street Railway car service from Fifth and Market streets, San Francisco, with its favorable connection with the Azevedo line at San Mateo, is the deciding factor. Witnesses had no complaint of inconvenience because of the change, their only complaint regarding the Azevedo street car service being based on the crowded condition of the street cars out of San Francisco as far as Daly City. This condition, according to A. L. Black, vice president of the Market Street Railway Company, would be remedied if a plan put forward by the Three Cities Chamber of Commerce of San Mateo County, and which is now being considered by the supervisors of San Francisco, is carried into effect. This plan would limit local traffic in San Francisco on suburban cars, thus making for faster time and less crowded conditions between San Francisco and San Mateo. Ample service between San Francisco and San Mateo is provided by the Southern Pacific and two auto stage lines.

According to Azevedo's travel record for the year 1924, he transported an average of 14 passengers per day between San Mateo and Half Moon Bay, including those carried each way, most of whom, he testified, were bound to or from San Francisco; in other words, 7 passengers per day each way. An exhibit offered by Coastside Company shows that from September 1, 1924, to March 1, 1925, the company transported 9 passengers per day between Half Moon Bay and San Francisco; in other words, $4\frac{1}{2}$ passengers each way per day, the total of both being $11\frac{1}{2}$ passengers each way per day. Coastside Company's passenger time schedule shows four round trips a day between San Francisco and Half Moon Bay, with extra trips on Sundays and holidays. This service is seldom used to utmost capacity, a further exhibit showing many vacant seats. A deficit of \$14,190.33 for the year 1924 is also shown in an exhibit filed by the company.

Considering all the factors governing peninsula traffic, I am of the opinion that the additional evidence offered by Applicant Azevedo does not justify any change in the Commission's order in Decision No. 14476, denying Azevedo the right to operate a through passenger and express service between San Francisco and Half Moon Bay, via San Mateo. Coastside Transportation Company is fully equipped to care for this through traffic, and denial of the through route to Azevedo will not in the least curtail the right of travelers to exercise their choice of routes, as the evidence shows they have done. There must, of necessity, enter into any consideration of the San Mateo County transportation problem the matter of the already crowded condition of the single highway leading to San Francisco. There are four auto stage lines now using this road; to allow another, as would be the case if Azevedo be granted authority to operate through to San Francisco, would simply be adding an extra travel hazard.

Azevedo has, however, justified his contention that there is a demand for an express service between San Mateo and Half Moon Bay. Connection with the American Railway Express service between San Francisco and San Mateo at San Mateo will provide a service amply sufficient to care for all the express business offered between Half Moon Bay and San Mateo and San Francisco.

I recommend the following form of order:

ORDER.

It is hereby ordered, that the application of William Azevedo for authority to operate a through service for the transportation of passengers between Half Moon Bay and San Francisco be and the same is hereby denied.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation of an auto

service for the transportation of express between San Mateo and Half Moon Bay and intermediate points.

It is hereby ordered, that a certificate of convenience and necessity for the transportation of express between San Mateo and Half Moon Bay and intermediate points, be and the same is hereby granted to William Azevedo, subject to the following conditions:

1. That no single package of merchandise to be transported shall weigh more than 200 pounds, and that only such merchandise may be transported as can, without inconvenience to passengers, be carried on the passenger stages of the William Azevedo auto line.

2. Applicant shall file within a period of not to exceed ten days from date hereof his written acceptance of the certificate herein granted and shall file within a period of not to exceed twenty days, tariff of rates and time schedules showing charges to be assessed and express service to be given between Half Moon Bay and San Mateo; and shall commence operations of said express service within a period of not to exceed thirty days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

5. For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

In all other respects the order heretofore issued by the Commission in Decision No. 14476, is to remain unchanged.

Dated at San Francisco, California, this twenty-fourth day of March, 1925.

DECISION No. 14703

BISHOP AND BAHLER, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY ET AL.

Case No. 2055.

IN THE MATTER OF THE AMENDMENTS TO THE MINIMUM CLASS RATES AND MINIMUM CAR CHARGE SCHEDULE AS SET FORTH IN TARIFFS OF CARRIERS OPERATING UNDER THE JURISDICTION OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Case No. 2070.

Decided March 24, 1925.

RATES—STEAM RAILROAD—MINIMUM CLASS SCALE.—Interstate Commerce Commission, in a parallel proceeding, having held that the carriers had not justified the proposed schedules (Western Classification) and ordered them canceled on or before April 13, 1925, and the carriers having notified the Railroad Commission that similar action would be taken in relation to intrastate rates, the complaint in this case involving the same issue, is dismissed.

BY THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that by an order, dated November 18, 1924, and as supplemented March 5, 1925, this Commission entered upon a hearing in Case No. 2070 concerning the lawfulness of the regulations and practices stated in the schedules enumerated and described in said orders, which involved the minimum weights of the Western Classification in connection with commodities moving under the minimum class rate scale, and suspended the operation of said schedules until September 18, 1925;

It further appearing that a hearing was held January 15, 1925, and the proceeding submitted;

It further appearing that the Interstate Commerce Commission in a parallel proceeding, Investigation and Suspension Docket No. 2266, involving the same issues, concluded by decision rendered February 27, 1925, that the carriers had not justified the proposed schedules and ordered the same canceled on or before April 13, 1925. The Interstate Commerce Commission, in its order, set forth that if any charges had been assessed by the defendants on the basis of minimum class rates and minimum weights provided by the classification when their exceptions provide different minimum weights, they have been doing so in disregard of the provisions of their tariffs;

It further appearing that the defendant carriers, through their agent, F. W. Gomph, notified this Commission under date, March 17, 1925, that they would put into effect on intrastate traffic within California a rule corresponding with that called for by the Interstate Commerce Commission's decision, February 27, 1925; this voluntary action of the carriers making unnecessary an opinion and order;

It further appearing that Case No. 2055, involving the same tariff items is likewise disposed of by the order of the Interstate Commerce Commission and the voluntary action of the defendant carriers, and the complainant in this proceeding having notified the Commission, in writing, March 19, 1925, that it has no objection to dismissal of Case No. 2055;

It is hereby ordered, that the defendants herein be and they are hereby notified and required to cancel said schedules on or before April 13, 1925, upon notice to this Commission and to the general public by not less than one (1) day's filing and posting in the manner prescribed in section 14 of the Public Utilities Act.

It is hereby further ordered, that Cases No. 2055 and No. 2070 be and the same hereby are dismissed.

Dated at San Francisco, California, this twenty-fourth day of March, 1925.

DECISION No. 14708.

IN THE MATTER OF THE APPLICATION OF THE HUNTINGTON BEACH TELEPHONE COMPANY, JOINED BY THE SMELTZER HOME TELEPHONE COMPANY, FOR PERMISSION TO PURCHASE ALL THE ASSETS OF THE SMELTZER TELEPHONE COMPANY, FIX RATES FOR SERVICE AND SELL BONDS.

Application No. 10076.
Decided March 27, 1925.

*Scarborough, Forgy and Reinhaus, by S. M. Reinhaus, for Applicant.
L. W. Blodgett, City Attorney, for the City of Huntington Beach.*

SEAVEY, *Commissioner.*

OPINION.

This is a joint application in which Smeltzer Home Telephone Company asks authority to sell its entire telephone system for a consideration of \$12,000 and the Huntington Beach Telephone Company to acquire this telephone plant and to consolidate the same with its Huntington Beach plant and to operate the combined plants as one system. The Huntington Beach Telephone Company also asks permission to sell \$20,000 of the bonds heretofore authorized to be issued by Decision No. 12495 at 90 per cent of their face value and to use the proceeds to purchase the plant of the Smeltzer Company and to make such rearrangements and improvements as may be found necessary to consolidate the two properties.

A public hearing in this matter was held at Huntington Beach on June 17, 1924.

The Smeltzer Company was incorporated in 1904. This company then established a central office at Smeltzer and built lines extending into the surrounding territory which at that time was devoted principally to the growing of celery. In 1913 the Smeltzer telephone system rendered service to over 330 subscribers' stations throughout an area of approximately 50 square miles.

Due to changed conditions resulting from the decline of the celery industry, the number of subscribers' stations served by Smeltzer Company has continually decreased since 1913 until at present there are less than 200. As a result, the investment in used and useful plant per station in this system as at present operated, is abnormally high and certain portions of the plant are no longer operative property.

Service between Huntington Beach and Smeltzer is provided at the present time, as it has been for some time in the past, over two inter-

exchange trunk circuits by which so-called free switching is furnished, there being no charges applicable to calls between the two exchanges. Because of the division of responsibility between the two companies these lines have not been properly maintained, which condition has resulted in inadequate service. If unlimited flat rate service over the areas served by Smeltzer Company and the Huntington Beach Telephone Company is to continue, it is apparent that a satisfactory physical connection between the two must be provided. This may be accomplished either by serving both areas from one central office, as proposed by applicants, or by reconstructing the present interexchange trunk lines and providing for the proper maintenance of same in the future. Under present conditions of the Smeltzer Company, it is doubtful whether that company would be able to bear its share of the burden which would be imposed by the latter method without seeking relief in form of toll rates to be applied to the use of the interexchange trunks. If the two exchanges are consolidated, the necessity for interexchange trunks will be obviated and at the same time a reduction in operating expenses may be effected through the abandonment of the Smeltzer central office. The location of the territory served by Smeltzer Company, which territory practically surrounds the area served by the Huntington Beach Telephone Company, is also favorable to the consolidation plan.

If permission to consolidate the two properties is granted as requested, the Huntington Beach Telephone Company has suggested that magneto telephone service only, be furnished in the territory now served by the Smeltzer Company. The Huntington Beach telephone plant is at present operated as a common battery system and the common battery type of service is offered for all grades of service, except ten-party suburban service. Giving due consideration to the size of the territory to be served and modern telephone practice in exchanges of comparable size, it does not appear to be unreasonable to require the Huntington Beach Telephone Company to offer common battery service throughout the combined areas to all grades of service except ten-party suburban service. This will allow a subscriber outside the Huntington Beach primary rate area to select at his option, either common battery or magneto service. The order following will so provide.

Exhibits were filed by applicants purporting to show an inventory of the telephone properties of the Smeltzer Company and proposed changes in completing the unification of the properties. No appraisal of this property was presented by applicants. Applicants did, however, present book costs, together with an estimate of cost of plant to be constructed and book values of plant to be retired.

Applicants' exhibits have been checked by this Commission's engineering department. This work included a review of the plan of the Huntington Beach Telephone Company for serving the Smeltzer Company's subscribers from Huntington Beach and an inspection of a portion of the Smeltzer plant in the field to determine its present condition. From the results of this investigation and inspection I find that the proposed purchase price of \$12,000 is not an unreasonable amount to be paid for the property.

The gradual decrease in the business of the Smeltzer Company during the past several years has resulted in a certain portion of the plant becoming now no longer used and useful. Making an allowance for this and using the engineering department's estimates for plant to be removed and new construction work necessary, the determination of the estimated historical reproduction cost undepreciated of the plant in the present Smeltzer Company territory is as follows:

Historical reproduction cost undepreciated as of November 1, 1919, less M. & S. (Decision No. 7310, 17 C. R. C. 964)	\$23,223 00
Plus net changes, November 1, 1919, to December 31, 1923 (Smeltzer Company's annual reports)	1,522 00
Less plant to be removed	2,905 00
Less plant not used and useful	2,579 00
Plus plant to be constructed under proposed plan	16,389 00
Plant as of January 1, 1924, under proposed plan, less M. & S.	\$35,650 00

Under applicants' proposed rates it is estimated that the total annual revenue of the combined plants will amount to \$38,700 while the estimated annual expenses, including depreciation annuity, taxes and uncollectibles, total \$28,000.

It is evident that, if the Smeltzer and Huntington Beach Telephone plants are combined and the consolidated system operated from one central office, the rate of any one class or grade of service rendered under similar conditions should be uniform throughout the territory served, with the possible exception of the business area of the town of Westminster. Applicants' proposed rates are not, in all cases, uniform and will provide for a different rate for the same service at present effective throughout the Huntington Beach territory. The town of Westminster presents a peculiar condition which is not found elsewhere in the territory outside of the city of Huntington Beach. The town of Westminster is a small congested business district and due to the lower costs of serving, would be entitled to a lower rate than will apply in the surrounding territory. In the rate schedules recommended in the order following, a special rate area for Westminster and a special four-party business service rate applicable in this area is provided.

By Decision No. 12495, dated August 17, 1923, in Application No. 8869, the Commission authorized Huntington Beach Telephone Com-

pany to execute a mortgage and to issue and sell at 90 per cent of face value, plus accrued interest, \$50,000 of first mortgage 6 per cent serial bonds. The order of the Commission permitted the company to use \$30,000 of the proceeds from the sale of such bonds to finance the cost of acquiring real estate, erecting a new office building and installing new equipment, but provided that the remainder of the proceeds may be expended only for such purposes as the Commission would subsequently authorize.

The company has reported that pursuant to the authority granted by the Commission, it has issued and sold at 90, \$30,000 of bonds, receiving in cash the sum of \$27,000 which it has used to pay for extensions, additions and betterments prior to February 28, 1924. It now asks permission in this proceeding to sell the remaining \$20,000 of bonds authorized by Decision No. 12495 at not less than 90 per cent of their face value, and to use \$12,000 of the proceeds to pay for the properties of Smeltzer Home Telephone Company and \$6,000 to pay for extensions, additions and betterments.

It appears that it is the proposal of applicants to transfer the properties of Smeltzer Home Telephone Company to Huntington Beach Telephone Company, free and clear of indebtedness excepting miscellaneous current accounts payable. As I have heretofore stated, based on the investigation and inspection by the Commission's engineers, I am of the opinion that the proposed purchase price of \$12,000 is not an unreasonable amount to be paid for the properties, and the order herein will authorize the transfer at that price.

Under the proposed plan of consolidation of the two telephone systems involved in this application, it is thought that it will be necessary to expend \$16,389 for new construction and for rebuilding of lines acquired from Smeltzer Home Telephone Company, as outlined herein above. It is to finance, in part, the cost of these estimated expenditures that the remaining \$6,000 to be obtained from the sale of bonds, will be used.

Huntington Beach Telephone Company proposes to reconstruct a considerable portion of the telephone plant in the present Smeltzer Company territory, if permitted to consolidate the properties. It appears that such reconstruction is necessary if satisfactory service is to be rendered to patrons in the present Smeltzer Company territory and that a major portion of such reconstruction work should be completed before the rates set forth in Exhibit No. 1, attached hereto, are made effective.

The order following will provide that the rates should not become effective until the issuance of a supplemental order after Huntington Beach Telephone Company has satisfied this Commission that the necessary reconstruction work has been completed.

I herewith submit the following form of order:

ORDER.

The Huntington Beach Telephone Company and the Smeltzer Home Telephone Company, having applied to the Railroad Commission for an order authorizing the Smeltzer Home Telephone Company to sell to the Huntington Beach Telephone Company all of its telephone property located in the vicinity of Smeltzer, Westminster and Huntington Beach, in Orange County, California, the Huntington Beach Telephone Company to purchase and acquire the same, to engage in the telephone business in the territory now served by the telephone system of the Smeltzer Home Telephone Company, and the Huntington Beach Telephone Company to sell bonds; a public hearing having been held and the matter having been submitted and now ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the consolidation of the property of the Smeltzer Home Telephone Company and the Huntington Beach Telephone Company will be to the interest of the property of both companies and of the public and that such consolidation should be allowed, and that the rates now in effect are unjust and unreasonable in so far as they differ from the rates hereinafter set out in the order following.

Basing its order on the foregoing findings of fact and on such other findings and statements of fact as are set forth in the opinion preceding this order;

It is hereby ordered, that the Smeltzer Home Telephone Company be and it is hereby authorized to sell and transfer to the Huntington Beach Telephone Company, for the sum of \$12,000, the property more specifically described in Exhibit "E," attached to and made a part of the application in this proceeding; and

It is hereby further ordered, that the Smeltzer Home Telephone Company be and it is hereby authorized to suspend and abandon all public utility operation from and after the date of transfer of its telephone properties to the purchasing company; and

It is hereby further ordered, that the Huntington Beach Telephone Company be and it is hereby authorized to engage in the telephone business in the territory heretofore served by the Smeltzer Home Telephone Company.

The authority herein contained is granted upon the following conditions and not otherwise:

(1) Any transfer made hereunder shall be made on or before May 1, 1925.

(2) Huntington Beach Telephone Company shall file a certified copy of the instrument of conveyance with the Railroad Commission within thirty (30) days after the date on which it is executed.

(3) The consideration at which the public utility properties are herein authorized to be transferred shall not be considered as a measure of the value of said properties for any purpose other than the transfer herein authorized.

It is hereby further ordered, that Huntington Beach Telephone Company shall charge and collect:

1. The rates as set forth in Exhibit No. 1 attached hereto for suburban service furnished throughout the entire suburban area and for four-party business service furnished in the Westminster rate area, after showing to this Commission that Huntington Beach Telephone Company has properly rebuilt its telephone plant to render adequate service and upon supplemental order from this Commission.

2. The rates now in effect in the Huntington Beach exchange area for all telephone service other than that referred to under section 1 above.

It is hereby further ordered, that Huntington Beach Telephone Company, pending the issuance of the supplemental order referred to in section (1) above, shall charge and collect within that area now served by the Smeltzer Telephone Company the rates now in effect for the Smeltzer Telephone Company.

It is hereby further ordered, that the order in Decision No. 12495, dated August 17, 1923, be and it is hereby modified so as to permit Huntington Beach Telephone Company to issue and sell \$20,000 of the bonds authorized therein at not less than 90 per cent of their face value, plus accrued interest on or before December 31, 1925, and to use \$12,000 of the proceeds to be received to pay for the properties of Smeltzer Home Telephone Company, herein authorized to be transferred, and \$6,000 to finance, in part, the cost of the extensions, additions and betterments to which reference is made in the foregoing opinion.

It is hereby further ordered, that the order in Decision No. 12495, dated August 17, 1923, as amended, shall remain in full force and effect, except as modified by this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of March, 1925.

EXHIBIT NO. 1.

Exchange Service—Schedule No. A-2.

Four-party line service, Westminster.

Applicable to four-party line magneto service furnished in the Westminster rate area.

Rate.

	Rate per station per month	
	wall set	desk set
Four-party line -----	\$3 50	\$3 75

Conditions.

(1) The above rates are applicable to four-party line magneto service, either business or residence, furnished in the Westminster rate area only; for rates for four-party line magneto service outside the Westminster rate area but within the suburban area or for four-party line common battery service at any point in the suburban area see Schedules Nos. A-1 and A-4.

(2) A discount of \$0.25 is allowed on the rate for four-party line service in the Westminster rate area if payment is made on or before the tenth day of the current month.

Exchange Service—Schedule No. A-5.

Suburban service.

Applicable to magneto suburban party-line service furnished in the suburban area.

	Rate per month per station			
	business service		residence service	
	wall set	desk set	wall set	desk set
Suburban service -----	\$3 50	\$3 75	\$2 50	\$2 75

Conditions.

(1) Suburban service is furnished outside the primary rate area but within the exchange area. In no case will the total number of stations connected to one circuit exceed ten (10) stations.

(2) A discount of \$0.25 is allowed on rate for suburban service if payment is made on or before the tenth day of the current month.

Description of Boundary of Westminster Rate Area.

Beginning at the intersection of a line due east and west and 350 feet north of the southern boundary of Sec. 2, T. 5 S., R. 11 W. with a line parallel to and 200 feet west of the center line of Elm (Golden West) street, Westminster; thence due east along a line 350 feet north of the southern boundary of Sec. 2, T. 5 S., R. 11 W. to the point of intersection with a line parallel to and 200 feet east of the center line of Oak street, Westminster; thence in a southerly direction along a line parallel to and 200 feet east of the center line of Oak street, to the point of intersection with a line due east and west and 230 feet south of the southern boundary of Sec. 2, T. 5 S., R. 11 W.; thence due west along a line 230 feet south of the southern boundary of Sec. 2, T. 5 S., R. 11 W. to the point of intersection with a line parallel to and 200 feet west of the center line of Elm (Golden West) street; thence in a northerly direction along a line parallel to and 200 feet west of the center line of Elm (Golden West) street to the point of beginning.

DECISION No. 14710.

SAN FRANCISCO CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 1980.

Decided March 27, 1925.

TRANSPORTATION—STEAM RAILROAD—TRAP CAR SERVICE.—Failure of Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company to establish trap car privileges and service within San Francisco switching limits, although such service is maintained within the Oakland, Stege and Richmond switching limits, is unduly prejudicial to San Francisco shippers; also the granting of such privileges to Grocers' Terminal and Ford within San Francisco switching limits is prejudicial to other shippers within the same limits. Discrimination ordered removed.

Seth Mann, for Complainant.

Sanborn, Roehl and DeLancey C. Smith, by *A. B. Roehl* and *R. D. Rynder*, for South San Francisco Chamber of Commerce, Interveners; Manufacturers Association of South San Francisco, Intervener.

E. W. Hollingsworth, R. T. Boyd, and *Bishop and Bahler*, for Traffic Department, Oakland Chamber of Commerce, Berkeley Manufacturers Association, Berkeley Chamber of Commerce, and Richmond Chamber of Commerce, Interveners.

W. O. Banks and *George M. Lowen*, for Standard Oil Company, Intervener.

G. J. Bradley, for Merchants and Manufacturers Traffic Association of Sacramento, Intervener.

J. M. Vizzard, for Draymen's Association of San Francisco, and California Truck Owners Association, Interveners.

B. E. Bishop, for Montague Pipe and Steel Company, Interveners.

E. W. Camp and *B. Levy*, for Atchison, Topeka and Santa Fe Railway Company, Defendant.

Elmer Westlake, H. W. Klein, and *V. S. Andrus*, for Southern Pacific Company, Defendant.

BY THE COMMISSION.

OPINION.

The complainant, San Francisco Chamber of Commerce, is a corporation organized under the laws of the State of California, with offices in San Francisco, having for its object the promotion of the commercial and industrial interests of the city and county of San Francisco. Its membership includes merchants, manufacturers and shippers whose principal places of business are in the city and county of San Francisco and in South San Francisco.

By complaint as amended, complainant alleges: That it is in competition with shippers located in the city of Oakland and points adjacent thereto situated on the east side of San Francisco Bay; that defendants publish and maintain tariffs applying in the Oakland territory containing rates, charges, practices, regulations, services and facilities for the transportation of "trap car," or less-carload, freight between industry tracks and private sidings on the one hand and the depots of defendants on the other; that for this so-called trap car service defendants make a charge of \$2.70 per car for the less-than-carload shipments contained therein when incidental to a line haul, regardless of the minimum weight or number of shipments; that notwithstanding complainants have made repeated demands, defendants have refused to establish a similar service within the switching limits of San Francisco; that there is now no trap car service in San Francisco except that established November 17, 1923, by the Western Pacific Railroad Company, as set forth in its Tariff G. F. D. 35-J, C. R. C. 245; that said less-carload switching service of the Western Pacific is limited to a minimum of 6000 pounds and is rendered without increase over the line haul rates; that the failure of defendants to establish a trap car privilege within their respective San Francisco switching limits creates undue and unreasonable discrimination against San Francisco and South San Francisco, and undue and unreasonable preference and

advantage in favor of Oakland and other points, contrary to the provisions of the constitution of the State of California and section 19 of the Public Utilities Act. It is also alleged that establishment by the Southern Pacific Company of substations within industrial plants in the San Francisco switching limits constitutes undue discrimination and unreasonable difference as to rates, charges, service and facilities against all shippers within the same switching limits.

The prayer for relief is that defendants be required to cease and desist violating the constitution and the Public Utilities Act, and to publish and maintain such rates, charges, practices, regulations, service and facilities within the switching limits of San Francisco as will remove the undue discrimination and unreasonable differences maintained and enforced against San Francisco and South San Francisco.

A public hearing was held before Examiner Geary, and the case having been duly submitted and briefed is now ready for an opinion and order.

The South San Francisco Chamber of Commerce and the Manufacturers Association of South San Francisco intervened in support of the complaint, making substantially the same allegations. Other parties permitted to intervene were the Oakland Chamber of Commerce, Berkeley Manufacturers Association, Berkeley Chamber of Commerce, Richmond Chamber of Commerce, Standard Oil Company, Merchants and Manufacturers Association of Sacramento, Draymen's Association of San Francisco, California Truck Owners Association and Montague Pipe and Steel Company.

California railroads do not employ the term "trap car" in publishing less-carload switching privileges, but it is a phrase commonly applied to a car placed at an industry or private track, there to be loaded with less-than-carload freight by the consignor for different line haul destinations, and is also applied to cars loaded with less-than-carload line haul freight moved from freight stations to industry or private tracks for unloading by the consignees.

The service rendered by carriers in connection with trap cars consists of switching the cars to and from industry tracks from and to freight stations and includes the necessary handling at stations or transfer platforms. This trap car service is of advantage to its users, eliminating drayage charges on less-than-carload shipments.

The Southern Pacific Company publishes Item 250-A in its Terminal Tariff No. 230-I, C. R. C. No. 2826, reading as follows:

Station—

Oakland, California.

Between Depot at Kirkham street and Industry Tracks and Private Sidings within the following switching limits:

From Sixteenth street on the Port Costa Line, via Oakland Wharf and West Oakland, to west end of trestle west of Alice street on the Niles Line.

Commodity—

Freight, less carload, originating at or destined points on or via the lines of the Southern Pacific Company beyond Oakland, California.

Rate per car ----- \$2 70

Other items are published throughout the tariff providing similar service at all stations within the Oakland switching limits—Alameda, Berkeley, Emeryville, Fruitvale, also at Stege and Richmond. The tariffs of the Santa Fe and the Western Pacific provide like items in the same general territory. This so-called trap car service was first established in Oakland in 1906, immediately following the San Francisco earthquake and fire, to relieve the congestion created by that disaster, but the charges for the service performed were not properly published in tariff form until the year 1909, when the Southern Pacific made provisions in its terminal tariff. The privilege has been gradually extended to practically all stations within the Oakland switching limits and also to Stege and Richmond, points outside the Oakland limits.

Effective February 1, 1923, items were published in Southern Pacific Terminal Tariff providing that the industry tracks located at Chevrolet and at Durant would take the less-than-carload rates applying to Fruitvale when movement was from Chevrolet, and from Elmhurst when from Durant. This had the effect of making substations of the private tracks at these two industries and relieving the Chevrolet and Durant shippers from payment of the trap car charge of \$2.70; in other words, giving these two industries station rates.

At other stations within the Oakland switching limits, where less-carload freight is handled from the private industry tracks, the charge of \$2.70 per car prevails.

The record indicates that out of a total of approximately 334 industries located in the Oakland territory, 55 industries served by track connections are using the present trap car service. The largest user, the Standard Oil Company, with refineries and shipping agencies at Richmond, forwarded during the twelve months of 1923 via the Southern Pacific, outbound, 392 cars, having a total weight of 12,973,243 pounds, an average of 33,011 pounds per car, and via the Santa Fe 124 cars, total weight 2,069,243 pounds, an average of 16,823 pounds; inbound via the Southern Pacific 540 cars, total weight 8,746,074 pounds, average 16,249 pounds; via Santa Fe 159 cars, total weight 2,178,870 pounds, average 13,783 pounds, or a total via the rails of these two defendants, outbound and inbound, of 1205 cars, having a total weight of 25,967,420 pounds, approximately 100 cars per month. The heavier loading via Southern Pacific than via Santa Fe is due to the larger territory served by the Southern Pacific and in this Richmond situation the inbound trap cars are in excess of the outbound, thus avoiding empty car mileage.

These figures clearly illustrate the magnitude of this trap car service, which has been of continual growth for a number of years.

The less-carload trap car service within California is not confined to the East Bay territory, but is authorized at many stations throughout the state, as evidenced by the following table, made up from Southern Pacific Terminal Tariff 230-I, C. R. C. No. 2826: -

Item No.	Station	Commodity	Rate
1220-C	Stations in Arizona, California, Nevada, New Mexico, Utah and Oregon.	Freight, less carload. (Containing one or more pieces weighing 5000 lbs. or more, each) -----	\$2 70
1230-B	Stations in Arizona, California, Nevada, New Mexico and Oregon.	Fruit, dried, less carload 5000 lbs. or over-----	\$2 70
1240-A	Stations in Arizona, California, Nevada, New Mexico and Oregon.	Fruit, fresh, in partial carloads, for completion of load -----	\$2 70
1290-A	Stations in Arizona, California, Nevada, New Mexico and Oregon.	Fruit and vegetables, fresh, less carload -----	\$2 70
1310	Stations south of Ashland, Oregon; Ogden, Utah and West, Rio Grande, N. M. and West.	Wool in sacks in lots of 10,000 lbs., or over-----	\$2 70
1580	Crockett, California.	Freight, less carload-----	29¢ per ton, minimum charge; \$5.85 per car.
2320	Rocklin, California.	Freight, less carload ----	29¢ per minimum, \$5.85 per car.
2340	Sacramento, California.	Freight, less carload-----	29¢ per ton, minimum, \$5.85 per car.
2790	Santa Cruz, California.	Freight, less carload-----	29¢ per ton, minimum, \$2.70 per car.
2810	South Vallejo, California.	Freight, less carload-----	\$2.70 per car.

It will be noted from the above that in addition to the named stations, Crockett, Rocklin, Sacramento, Santa Cruz and South Vallejo, defendants now give less-carload trap car service at all stations in California, including San Francisco, in connection with articles weighing 5000 pounds or over—dried fruits, fresh fruits, fresh vegetables and wool.

The record shows the Santa Fe has trap car service in the states of Colorado, Kansas, Oklahoma and New Mexico, and also that the carriers throughout the United States east of Montana, Idaho, Utah and Arizona furnish the service at practically all important points, especially in the large industrial centers—Kansas City, St. Louis, St. Paul, Chicago, Omaha.

That the East Bay business associations take advantage of the trap car privilege is evidenced by extracts from publications distributed by their commercial organizations. In the record appears the following, taken from pamphlets distributed by the Oakland and Richmond Chambers of Commerce:

Oakland—Less-than-Carload Shipments:

Oakland has a less-than-carload switching service which provides the shipping or receiving of less-than-carload shipments, any number to the car, for a charge of \$2.70 per car to the nearest depot. The service eliminates drayage service and charges and delivers less-than-carload shipments to the carriers at a very low charge. No other city on the Pacific Coast has such an arrangement.

Richmond—Trap car Service:

Richmond enjoys a trap car or L. C. L. service which in itself is enough to justify the location here of any factory having considerable L. C. L. or local shipments.

This service costs \$2.70 per car. For this fee the Southern Pacific or Santa Fe will pick up carload lots of L. C. L. shipments at the plant and transfer them to the freight warehouse, or handle incoming L. C. L. shipments from freight station to plant.

This service could not possibly be duplicated by truck for anything approximating the rate charged by the railroads.

Neither Los Angeles, San Francisco, Seattle, Portland, nor any other city on the Pacific Coast except the Eastbay cities, enjoys such a service.

There was evidence by witnesses for complainant and interveners to the effect that manufacturing and jobbing organizations have located in Oakland, and some have moved from San Francisco to Oakland because of the trap car privilege.

Witnesses for San Francisco and South San Francisco testified that trap cars would be freely used in those communities, especially by shippers of heavy articles and such use would be of benefit to defendants, relieving congestion at freight depots and platforms during the peak hours.

The defendants presented seven exhibits, the purport of the same being to estimate the number of trap cars which might be used if the service were put into effect at San Francisco, and as a consequence of such adjustment were to be established in the other large industrial communities throughout the state—Los Angeles, San Jose, Sacramento, Stockton and Fresno.

A check at San Francisco by the Southern Pacific of its less-carload freight for a period of six days, May 14 to 19, inclusive, 1923, showed 340 consignors and 79 consignees; of these only 124 consignors and 26 consignees have industry tracks. The exhibit further showed that of the total less-car tonnage at San Francisco during those six days only 33 per cent originated at industries having private tracks; at Los Angeles for a like period, 38 per cent was shown originating at industry tracks. Similar figures were prepared to illustrate the situation exist-

ing on the Santa Fe at San Francisco, Los Angeles, Stockton, Fresno, and San Diego.

It will not be profitable to enter into any extensive analysis of all of the figures presented; they represent a check, in most instances, for only six days and the conclusions arrived at are based upon this test period, which appears insufficient to be of probative value.

In another exhibit the Southern Pacific estimates an average delay per trap car of 1.98 days and that based on an average of 84 cars required per day, at the seven industrial centers, San Francisco, Oakland, Los Angeles, San Jose, Sacramento, Stockton and Fresno, by shippers with industry tracks handling 6000 pounds and over per day, would result in a loss of 167 car days per day or, based on 306 working days per year, of 51,102 car days per annum. It is further estimated that the loss in defendant's earnings from these car detentions would total \$722,160 per year. These figures, however, are purely speculative, based upon a possible daily car movement of 35 miles at an average earning per net ton mile, and assessed against the trap cars include the full time required between carrier's yards and the industry tracks, making no allowance for the time equipment would consume in regular service moving from the same yards to the depots or team-loading platforms. If this element were taken into consideration, the car-day losses of 1.98 per day would be materially reduced.

Defendant's Exhibit No. 5 gives the average number of cars used per working day in the entire East Bay district, including Stege and Richmond, as 7.12. In that territory, according to Exhibit No. 1, there are 135 shippers having private tracks, thus indicating that during the period of time covered by Exhibit No. 5 one trap car per day was sufficient to meet the requirements of nineteen shippers. These figures would indicate that carriers would not be required to furnish the great number of trap cars estimated in their other exhibit.

The record is voluminous and defendants have gone into many phases of the situation. The main contentions are that operating conditions are dissimilar at San Francisco; that the Santa Fe has no direct rails into San Francisco, but must ferry all of its cars across the bay; that the San Francisco switching tracks have many sharp curves and severe grades, thus making the costs greater than at other comparable points, especially Oakland; that the present San Francisco freight houses and loading platforms are now used to the limit of capacity; that a trap car service would make necessary the expenditure of large sums of money to meet the situation; that less-carload freight is made up into trains at 5 p.m., resulting in 24 hours delay to trap car freight unless switched from private tracks early in the day; that the rehandling of trap car freight involves greater cost than moving the same freight over the station platforms. All of these contentions have been given our

careful consideration and it will serve no good purpose to analyze the points in detail.

We are of the opinion and find that failure of defendants to establish within San Francisco switching limits trap car privileges and service and to maintain such service within the Oakland, Stege and Richmond switching limits is unduly prejudicial to San Francisco and shippers thereat, and unduly preferential to the latter's competitors within Oakland, Stege and Richmond switching limits.

There remains for consideration the separate allegation against defendant Southern Pacific Company that by Supplement No. 26 to C. R. C. No. 2475, Southern Pacific Tariff G. F. D. Circular 263-D, it established substations at Grocers Terminal (Grocers Terminal Building), San Francisco, and at Ford (Twenty-first and Harrison streets), San Francisco, giving to these two points the less-carload rates applying to the San Francisco agency, and that this arrangement is preferential to shippers at these points and prejudicial to all other less-carload shippers within San Francisco switching limits. Both Grocers Terminal and Ford are under the jurisdiction of the San Francisco Freight Agency. The record makes it clear, however, that at these two points only the tenants occupying the Grocers Terminal Building and the Ford Automobile Buildings are permitted to forward or receive less-carload freight within the grounds, although the Southern Pacific Company furnishes its employees to check and assist in handling the freight. The general public has no access to the industry tracks or shipping facilities of these two substations and defendant makes no real effort to secure traffic and does not in good faith offer to serve the public at these points.

Complainant also made an effort to show that the handling of less-carload freight at Drumm street station within the San Francisco switching limits, but located on the State Belt Railroad, is a discrimination against other shippers. The evidence in the instant proceeding and the records of this Commission clearly show that for many years Drumm street station has been an agency station open and available to all shippers alike for receipt and delivery of carload and less-carload freight within certain defined territories.

We conclude and find as to the Drumm street station no discrimination, prejudice or preference has been shown to exist.

We conclude and find that maintenance by the Southern Pacific Company of the less-carload privileges and service at San Francisco in connection with private industry tracks within the properties of Grocers Terminal and Ford, privileges not extended to other shippers similarly located on private industry tracks within San Francisco switching limits, is the granting of preference and advantage, in violation of the provisions of the constitution of the State of California and of section

19 of the Public Utilities Act and, therefore, unlawful. A rate can not be limited in its application to individual shippers. Defendant should remove the unlawful preference and advantage found to exist within the San Francisco switching limits, which includes South San Francisco.

The Southern Pacific Company has a comparable situation in Oakland in the less-carload service rendered for the Chevrolet and Durant private industry tracks, and while not directly in issue in this proceeding should be given consideration by defendant when making the San Francisco adjustment.

Carriers rendering less-carload service at line-haul rates from private industry tracks apparently are holding out a privilege of special character for which they are entitled to fair compensation, otherwise this less-carload service performed for one group of shippers without charge, or at only a nominal charge, becomes a burden upon other traffic. The instant record does not supply any cost figures upon which the Commission could base a reasonable charge for the service. It would appear, however, that for many years where the service has been performed, as outlined in the exhibits set forth in this opinion, the charge in most instances has been \$2.70 per car regardless of the weight of the shipments or the number of packages.

Defendants should submit to the Commission within ninety (90) days from the date of this order its plan for removing the discrimination, and in this connection we would suggest that conferences be held with the interested shippers in both the San Francisco and Oakland territories in an effort to arrive at an arrangement satisfactory to both communities, non-preferential and in compliance with the state constitution and the Public Utilities Act.

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, the Commission on the date hereof having made and filed its opinion containing its findings of fact and conclusions thereon, which said opinion is hereby referred to and made a part hereof, and the Commission having found in said opinion that the refusal of the defendants to establish less-carload switching privileges at San Francisco to the extent they are granted in Oakland, is unduly prejudicial to San Francisco; also that the granting of less-carload switching privileges to Grocers Terminal and Ford within San Francisco switching limits is prejudicial to other shippers within the same switching limits;

It is hereby ordered, that said defendants, according as they participate in the transportation, be and they are hereby notified and required to present to the Commission for its consideration, on or before ninety (90) days from the date of this order, tariffs removing the discrimination, preference and advantage found to exist.

Dated at San Francisco, California, this twenty-seventh day of March, 1925.

DECISION No. 14717.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS PAR VALUE OF ITS SEVEN PER CENT PREFERRED CAPITAL STOCK.

Application No. 10921.

Decided March 28, 1925.

Le Roy M. Edwards, for Applicant.

SHORE, Commissioner.

OPINION.

In this application Southern Counties Gas Company of California, asks permission to issue and sell \$1,250,000 of its 7 per cent preferred stock.

In a financial statement, dated January 31, 1925, and attached to the application, the company reported its authorized capital stock as \$5,000,000, consisting of 50,000 shares of the par value of \$100 each and divided equally into common and 8 per cent preferred stock, of which \$1,500,000 of the common and \$1,250,000 of the preferred was said to be outstanding. It appears that at a meeting of the stockholders held on March 18, 1925, subsequent to the filing of the application, it was voted to increase the authorized capital stock to \$25,000,000 divided into \$12,500,000 of common stock, \$1,250,000 of 8 per cent preferred stock and \$11,250,000 of 7 per cent preferred stock. The 8 per cent preferred stock bears cumulative dividends at the rate of 8 per cent per annum and is callable at the option of the company at \$102 per share. The 7 per cent preferred stock bears cumulative dividends at the rate of 7 per cent per annum and is callable at the option of the company at \$107.50 per share. Except as to dividend rate and redemption price, there is no distinction or preference, between the two classes of preferred stock.

As of February 28, 1925, applicant reports its assets and liabilities as follows:

<i>Assets.</i>		
Fixed capital		\$14,144,726 40
Construction work in progress		367,579 64
Current assets:		
Materials and supplies	\$468,139 79	
Notes and accounts receivable	486,506 57	
Cash—Operating	310,699 59	
Interest and tax funds	323,612 94	
Sinking fund	15,211 27	
Stock and securities owned	2,500 00	
		1,606,670 16
Deferred charges		751,706 69
Total assets		\$16,870,682 89
Capital stock:	<i>Liabilities.</i>	
Common	\$1,500,000 00	
Preferred	1,250,000 00	
		\$2,750,000 00
Funded debt:		
First mortgage bonds	\$8,239,200 00	
Collateral trust bonds	537,400 00	
		8,776,600 00
Current liabilities:		
Notes payable	\$250,000 00	
Accounts payable	784,043 86	
Accruals	266,183 06	
Consumers' deposits	943,786 64	
		2,244,013 56
Reserve for accrued depreciation		1,090,651 73
Other reserves		281,578 83
Other credit balances		98,089 04
Corporate surplus		1,629,749 70
Total liabilities		\$16,870,682 89

The company asks permission to use the proceeds to be received from the sale of the \$1,250,000 of 7 per cent preferred stock it now proposes to issue for the purpose of reimbursing its treasury, of paying indebtedness and of financing the cost of additions to and betterments of its plants and properties.

In a former proceeding, Application No. 10132, the company reported its uncapitalized construction expenditures as of April 30, 1924, at \$1,562,168.76, and by the decision in that matter, No. 13650, dated June 5, 1924, it was authorized to use a like amount of proceeds received from the sale of its Long Beach distributing system to finance such expenditures. Thereafter, in Application No. 10583, the company reported capital expenditures made during the period from May 1 to September 30, 1924, of \$809,202.94. The Commission's order in that matter permitted the use of the remaining proceeds of \$541,532.31 received from the sale of a portion of its properties to finance, in part, such expenditures.

The company now reports that up to February 28, 1925, it has expended for capital purposes the sum of \$916,219.73 for which it

has not been reimbursed with proceeds obtained from the sale of stock or bonds. It asks permission to use proceeds to be received from the sale of its stock to reimburse its treasury on account of such expenditures and thereafter to pay, in part, its notes and accounts payable. The remaining proceeds it intends to use to finance its capital expenditures to be made during the year 1925 to take care of the normal growth in business. It estimates that such expenditures will approximate \$2,065,000 and it has agreed to file with the Commission a copy of its 1925 budget showing them in detail.

Applicant asks permission to sell its stock at not less than 95 per cent of par value net. The testimony herein indicates that the company plans to market all of the stock covered by this application through its own organization and that it proposes to offer such stock for sale at par, if sold for cash, and at 101 if sold under installment contracts. It appears that the company intends to pay a commission to those selling stock, of \$1 a share for every share sold to present stockholders and of \$1.75 a share for every share sold to consumers who are not now stockholders. Taking into consideration all expenses incident to the sale, including commissions, applicant believes that the sale of its stock will yield it from 97 to 97.5 per cent of par value. The order herein will authorize the sale of the stock at not less than 97 per cent of face value net to the company. In the event it is found impossible to sell the stock under this condition, the company may file a supplemental petition in this matter requesting a modification of this order in this respect.

I herewith submit the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission for permission to issue and sell \$1,250,000 of its 7 per cent preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue and sale of such stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole, or in part, reasonably chargeable to operating expenses or income;

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to issue and sell, at not less than 97 per cent of par value net to the company, \$1,250,000 of 7 per cent cumulative preferred stock.

The authority herein granted is subject to further conditions as follows:

1. Applicant may use not exceeding \$916,219.73 of the proceeds to be received from the sale of the stock herein authorized to reimburse

its treasury and to pay, in part, outstanding current indebtedness to which reference is made in the foregoing opinion. The remaining proceeds may be used to finance in part, the estimated cost of additions and betterments to be made during the year 1925, provided, that only such expenditures as are properly chargeable to fixed capital accounts as defined by the uniform classification of accounts prescribed by the Commission may be financed by such proceeds.

2. Applicant shall file with the Commission, as soon as available, a copy of its 1925 construction budget.

3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall become effective upon the date hereof. Under such authority, no stock may be issued, sold or delivered subsequent to February 28, 1926.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-eighth day of March, 1925.

DECISION No. 14725.

IN THE MATTER OF THE INVESTIGATION INTO THE REASONABLENESS OF THE RATES, SERVICE, RULES, REGULATIONS AND PRACTICES OF THE GOLDEN GATE FERRY COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 2039.

Decided April 1, 1925.

RATES—AUTO FERRY—SAN FRANCISCO BAY.—Golden Gate Ferry Company is found to be earning 21.2 per cent per annum return on a rate base of \$1,570,422.12, which is found to be excessive. Rates charged for the transportation of automobiles that produce such a high return are unjust and unreasonable. Rates are fixed that will bring an operating income of \$183,375 a year.

RATE OF RETURN.—The utility is allowed a higher rate of return than would be justified in the case of a highly stabilized utility, due to extraordinary hazards, competition, ratio of investment to operating expenses, and other conditions.

POLITICAL CODE PROVISIONS.—This Commission is not governed in fixing rates by the provisions of the Political Code, and finds no merit in the contention that auto ferries come under the provisions of the Political Code allowing 15 per cent return to toll bridge companies operating on San Francisco Bay.

WORKING CAPITAL.—An allowance for working capital in a rate base is permissible only to the extent of the reasonable requirements.

GENERAL OFFICERS' SALARIES.—It appears proper to deduct \$12,000 from the allowance for salaries of general officers as included in account 670. These salaries appear unduly large for duties and responsibilities that normally attach to such positions in companies of this character and size.

Dudley D. Sales, for the Golden Gate Ferry Company.

Seth Mann and *S. A. Everstine*, for the San Francisco Chamber of Commerce.

Walter H. Nagle, for the Sausalito Chamber of Commerce.

SHORE and SEAVEY, *Commissioners*.

OPINION.

This is primarily an investigation into the service rendered and the reasonableness of the rates charged for the transportation of automobiles and passengers. Public hearings were held at San Francisco on October 27, 1924, and on December 5, 1924.

The Golden Gate Ferry Company operates between a slip at the foot of Hyde street in San Francisco and slips located adjacent to the Northwestern Pacific Railroad Company terminal at Sausalito. The wharf and slip at the foot of Hyde street were constructed by the company on lands leased from the Harbor Commission. The wharf and slips at Sausalito were constructed on the company's own lands.

The floating equipment consists of the following boats:

Motor ship *Golden Gate*, a Diesel electric, double-end motor-driven screw boat.

Motor ship *Golden West*, a Diesel electric, double-end, motor-driven screw boat.

Steamship *Avon J. Hanford*, a double-end, screw-driven boat.

In addition, the company owns an office building and warehouse located at its Hyde street terminal; an office building, fueling facilities located at its Sausalito terminal, and certain other small property items.

Ordinarily two boats are operated, and a service with a thirty-minute headway is provided; but a twenty-minute service is rendered on Saturdays, Sundays and holidays, or at any other time that the traffic warrants. The three boats are required to maintain the schedule on a twenty-minute headway.

The company was organized November 17, 1920, and commenced the operation of an automobile ferry between San Francisco and Sausalito, May 28, 1922, with one boat, the steamer *Avon J. Hanford*. On the eleventh of July the motor ship *Golden Gate* was put in service. The following April the motor ship *Golden West* was added to the fleet, giving a total auto capacity of approximately 210 automobiles an hour.

While the normal traffic has apparently been well taken care of in the past with this capacity and service, the congestion that develops on Saturdays and Sundays, and especially on holidays, would be relieved considerably if a boat of larger capacity than the *Hanford* were

available for the peak traffic. Moreover, it must be recognized that the route of travel served by the Golden Gate Ferry Company will be subject to a considerable increase of traffic, and with that increase of traffic, a more frequent regular service will be justified. Accordingly, there is little doubt in our minds that the ferry facilities on this route must be substantially increased in the near future.

This ferry route, crossing as it does the main shipping channel at a point near the Golden Gate, is one of the most hazardous routes on the San Francisco Bay, and great care in the operation of equipment is demanded at all times. The record indicates that the company operates its ferry system with reasonable precaution.

The company is capitalized at \$1,000,000 (10,000 shares of stock at \$100 par value) and the investment as of June 30, 1924, as shown by the company's books, amounts to \$1,336,906.51.

In view of the comparatively recent establishment of this company, its operations having been begun in May, 1922, the Commission's engineers believed that a historical reproduction valuation of its properties would be closely approximate to the company's investment as shown in its books. Accordingly, no valuation of physical property of the company was made by the Commission's engineers, nor was any offered or asked by the company.

An examination of the company's books and records was made by the Commission's accounting and engineering departments, and the investment as of June 30, 1924, was found to be as stated above.

The company, however, in submitting a statement of its investment as of September 30, 1924, included certain additions as shown below, some of which can not properly be included in a rate base. The company's figures are as follows:

<i>Assets.</i>		
Tangibles	-----	\$1,339,672 61
Intangibles	-----	26,749 51
Total investment	-----	\$1,366,422 12
Additions—		
Services rendered without compensation	-----	\$12,500 00
Interest on investment during construction	-----	48,577 56
Working capital	-----	64,898 38
Total additions	-----	125,725 94
Total	-----	\$1,492,148 06

The above item entitled "Services rendered without compensation," does not represent any actual expenditure, and can not be included in a rate base.

In respect to the item "Interest on investment during construction," the company apparently has misconstrued one of the practices of the

Commission. In preparing a property valuation the Commission does take into account interest on capital used during construction, as applicable in a rate base when the property has become operative. This is necessary in arriving at the amount of investment on a property valuation basis. But when a valuation is based upon actual investment as shown in the books, it is apparent that any interest that may have been expended during the construction is actually and fully reflected in the accounts of the company as shown in the books. To add this item to a statement of investment would involve a duplication of the amount. This item is therefore excluded from the additions suggested by the company to the rate base, herein.

An allowance for working capital in a rate base is permissible only to the extent of the reasonable requirements. In cases where a company receives its revenue before the payment for services is required, there is not the necessity for setting aside large sums for working capital. The Golden Gate Ferry Company's business is almost entirely on a cash basis, the revenue for each trip being collected before the trip is made, and most of the expenses are paid after the service is performed.

Accordingly, only a relatively small amount of working capital is required, sufficient to provide for a small stock of materials and supplies and to meet certain items of expense which may have to be incurred well in advance of the receipt of revenues for the corresponding service. The amount estimated by the Commission's engineers as ample for these purposes for this company is \$29,000. This amount will be included in the rate base.

The Commission believes, however, that in the face of the increase of traffic on this route which the record shows, and in view of the company's plans for the securing of an additional boat to provide additional service, an allowance should be made in the rate base on the assumption and condition that such an additional boat will be provided this year. An allowance of \$175,000 will be made for this purpose.

The amount of the existing investment as submitted by the company, having been arrived at in the same manner as the amount arrived at by the engineering department of the Commission, and differing only with respect to certain additions, some of which as above stated are inadmissible in a rate base, the Commission is of the opinion that the company's figure of \$1,366,422.12 covering tangible and intangible assets should be used, and that to that amount should be added \$29,000 for working capital and \$175,000 for an additional boat, making a total of \$1,570,422.12, which we believe is a reasonable "rate base" for the purposes of this proceeding.

The reasonableness of the present rates charged by the Golden Gate Ferry Company will now be discussed.

The company and the engineering department of the commission both estimated a normal increase of 10 per cent in the traffic with the use of the present facilities, and under existing conditions, assuming that factors of competition remain substantially unchanged. The record shows this amount to be very conservative. It is apparent, however, that with the addition of a fourth boat to the service and the increasing of the service to a 20-minute daily headway, and a 15-minute headway on Saturdays, Sundays, holidays and peak traffic periods, the traffic will be materially increased beyond the above estimated 10 per cent increase.

Mr. H. E. Speas, manager of the company, testified that the traffic increase of the months June to November, 1924, over the corresponding months of 1923, warranted the company in operating four boats, and he stated that the fourth boat should be operative in 1925. The record shows that in July, 1924, there was a 15 per cent increase of traffic over July in 1923; that August, 1924, showed an increase of 31 per cent over August, 1923, and September, 1924, showed an increase of 8 per cent over September, 1923. The revenues of these three months show an 18 per cent increase over the similar months of 1923. Moreover, these traffic increases were effective during a season when highway traffic generally was retarded by reason of the prevalence of a hoof and mouth disease and when forest fires retarded traffic in the direction of the recreation centers in northern California. On the basis, therefore, of the record of traffic increases, and of the installation of a fourth ferryboat, the Commission is of the opinion that the original estimates of the company and of the engineering department of the Commission of a 10 per cent increase of traffic with present facilities, do not adequately express the increase of traffic that will be realized under the conditions of the improved service. Accordingly, an addition should be made to the estimated revenues to reflect, in part, this larger increase of traffic. The amount of estimated revenue based on the increase of traffic that will be allowed is \$822,000.

The company contended that expected competition will more than counteract the estimated increase in traffic. It pointed out that the Northwestern Pacific Railroad Company contemplates instituting a ferry service between San Francisco and Tiburon, and estimates that this service would probably take away 50 per cent of its business. The evidence indicates that this competitive service would not be inaugurated for some time, and shows no assurance of its becoming established at all. It appears that no financial provision has as yet been made for the construction of any of the facilities required for this new ferry service by the Northwestern Pacific. That company stated that it

hoped to lease boats from the Southern Pacific Company, but the record shows that the Southern Pacific Company has no boats available to lease for such a service. It is fair to conclude from this record that no competition will develop from this source in the immediate future.

The company also contends that the proposed Golden Gate bridge will be a competitor; but, as the company's witnesses testified, the construction of this bridge if it becomes an actual undertaking, would probably require approximately ten years to complete, any competition resulting from this source need not be considered at this time.

It should be added that none of the estimates of probable increase of traffic takes into account the increase of traffic that would inevitably result from a reduction of the existing rates.

The past expenses of the company were studied and an estimate of expense for the ensuing year made by the Commission's engineering department (Commission's Exhibit No. 1). The Golden Gate Ferry Company made a similar study. A comparison of these estimates is as follows:

Comparison of Estimates of Operating Expenses.

Account	Engineering department's estimate— Exhibit No. 1	Ferry company's estimate— Exhibit No. 17
600 Repairs of equipment-----	\$43,000 00	\$31,399 36
610 Repairs of terminals-----	15,350 00	20,336 32
620 Depreciation-----	41,835 00	58,613 74
630 Traffic expense-----	7,500 00	11,885 68
640 Operation of vessels-----	170,710 00	183,670 46
650 Operation of terminals-----	22,500 00	30,156 20
660 Incidental expense-----	-----	11 20
670 General expense-----	88,910 00	110,362 48
Totals-----	\$389,985 00	\$446,435 44

The engineering department's estimate was based on the full year's expense as shown by the company's records for the year ending June 30, 1924, and reflects a year's operations. The company's estimate of expenses was based upon a six months' period ending September 30, 1924, and consequently represents expenses during the peak traffic months.

From the analysis of all the testimony, certain changes have been found necessary in the engineering department's estimate of expense.

An addition of \$6,000 to Account 610, "Repairs to terminals" is made in order that the estimate of expense as made by the engineering department of the Commission should include those extraordinary repairs to terminals, which it was shown may reasonably be expected.

The engineering department's estimate for fuel oil costs, as included in Account 640, "Operation of vessels," was based on a contract held by the company. This contract expires in April, 1925, and it appears

from the evidence that an increase of \$10,440 should be allowed in the estimate of operating costs chargeable to this account.

It appears proper to deduct \$12,000 from the allowance for salaries of general officers as included in Account 670, "General expense." The present salaries of president and general manager, vice president and secretary and treasurer are \$12,000, \$9,000 and \$9,000, respectively. These salaries appear unduly large for duties and responsibilities that normally attach to such positions in companies of this character and size. Two of these officers do, in fact, spend the major portion of their time on other interests controlled by them, and are drawing salaries also from another ferry company. It is our opinion that \$18,000 is a liberal amount to be allowed for the salaries of these three officers for the purposes of this proceeding.

The company contends that of the boats now in use, the two motor ships, *Golden Gate* and *Golden West*, will have to be retired within ten years, and the steamship *Hanford* within six years. The company, as shown in company's Exhibit No. 17, sets up depreciation for the boats on a combined 25-and-33 $\frac{1}{3}$ -year life. An amount is also added, sufficient to amortize the boats in 6 and 10 years, due allowance being made for the amount set aside for depreciation and for a salvage value of 30 per cent of cost. The engineering department of the Commission based its estimate for depreciation of boats on a 20-year life, no allowance for amortization being made. Mr. C. C. Brown, superintendent engineer of the company, testified that a 20-year life was reasonable. It appears that the amount estimated for depreciation by the Commission's engineering department is adequate.

The engineering department's estimate of expenses was based on the operation of the present equipment. The part-time operation of the additional boat will result in additional costs. An allowance of \$44,000 is made for this expense.

It is concluded that the expected results from operation for the year ending June 30, 1925, under the present rates and fares, may be fairly estimated as follows:

Operating revenue -----	\$822,000 00
Operating expense and depreciation -----	438,245 00
	<hr/>
	\$383,755 00
Taxes—Property -----	\$3,800 00
Income -----	47,494 00
	<hr/>
	51,294 00
Operating income -----	<hr/>
	\$332,461 00

This amounts to a 21.2 per cent rate of return on a rate base of \$1,570,422.12. This return is excessive, and rates charged for the transportation of automobiles that produce such a high return are unjust and unreasonable.

Mr. Charles J. Rhodin, a consulting engineer called as a witness by the company, outlined his experience in connection with various major public utilities of this state, and testified that in his opinion "the yield for ferry boat companies should lie somewhere between 8 or 9 or 10 per cent and 15 per cent," basing his reference to 15 per cent upon a provision in the Political Code governing the maximum return allowed to bridge companies connecting highways at opposite points across certain parts of the San Francisco Bay. Upon this basis he suggested that an approximate return of $11\frac{1}{2}$ per cent would be a fair return to the Golden Gate Ferry Company.

This Commission is not governed in fixing rates by the provisions of the Political Code, and has not heretofore allowed rates yielding so high a return as 15 per cent. Moreover, there is nothing in the evidence submitted in this proceeding which would justify the Commission in allowing a return of 15 per cent upon the rate base herein established. In only a few exceptional cases where hazards were extraordinary or where the invested capital was relatively small in proportion to the amount of operating revenues and expenses, has the Commission allowed a return in excess of approximately 8 per cent.

The hazards to the operating properties of ferryboats on San Francisco Bay, and particularly in the case of the Golden Gate Ferry Company, operating across the Golden Gate channel, are somewhat greater than those of most other utilities. Moreover, the ratio between the invested capital of this ferry company and the amount of its operating revenues and expenses is such that any considerable fluctuation in revenues or expenses from the amount estimated might make an important variation in the return. This company is also facing the necessity of increasing its ferryboat facilities in the near future to keep up with the increasing traffic. The Commission has taken all these facts into consideration in fixing the rates herein, which, with due efficiency and economy on the part of the company, will reasonably take care of these conditions and provide an adequate return upon the company's investment.

The rates as shown in Exhibit "A" attached hereto involve certain reductions from the existing rates. Under these rates, it is estimated that the following results from operation will obtain:

Estimate of Results From Operation Under New Rates.

Operating revenue -----	\$651,616 00
Operating expenses -----	438,245 00
	<hr/>
	\$213,371 00
Taxes—Property -----	\$3,800 00
Income -----	26,196 00
	<hr/>
	29,996 00
Operating income -----	<hr/>
	\$183,375 00

This operating income shows a somewhat higher rate of return upon the investment as shown in the rate base hereinabove indicated, than the Commission would be justified in allowing to a highly stabilized utility. The Commission, however, has taken into account the various factors of hazard, competition, ratio of investment to operating expense and other conditions; and in view of the reduction in the rates involved, believes that a substantial relief is hereby afforded to the traveling public, and that the result will be a greatly accelerated traffic, beneficial both to the public and to the company.

The following form of order is submitted:

ORDER.

The Commission having, on its own motion, instituted an investigation into the reasonableness of rates, services, rules, regulations and practices of the Golden Gate Ferry Company; public hearings having been held, the matter being submitted and ready for decision:

It is hereby found as a fact that the rates charged by the Golden Gate Ferry Company are, for the service rendered, unjust and unreasonable in so far as they differ from the rates hereinafter set forth, and basing its order upon the foregoing findings of fact and the findings of fact preceding this order;

It is hereby ordered, that the Golden Gate Ferry Company charge and collect for ferry service rendered under filed schedules, the rates set forth in Exhibit "A" attached hereto and made a part hereof, such rates to be filed with this Commission on or before April 20, 1925, and to become effective on and after May 1, 1925.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of April, 1925.

EXHIBIT "A."

GOLDEN GATE FERRY COMPANY—LOCAL PASSENGER TARIFF, Naming One Way, Round Trip and Commutation Fares Between San Francisco, California and Sausalito, California.

<i>Fares.</i>	
One way, adult -----	\$0 15
Round trip -----	25
Children, 7 years of age and under 12 -----	10
Children, under 7 years of age free when accompanied by parent or guardian.	
Individual calendar month commutation fare, good daily, including Sundays--	3 95

GOLDEN GATE FERRY COMPANY—FREIGHT TARIFF, Naming Freight Rates Between San Francisco, California and Sausalito, California.

<i>Rates.</i>	
Automobiles -----	\$0 65
Ambulances -----	85
Hearses (with or without casket) -----	85

Automobile passenger busses—

10-passenger capacity -----	\$0 85
15-passenger capacity -----	1 05
20-passenger capacity -----	1 50
21-passenger capacity and over -----	1 70

Commutation Rates.**Automobile passenger busses, including driver, over fixed route, 8 trips daily—**

10-passenger capacity -----	5 00
15-passenger capacity -----	6 60
20-passenger capacity -----	10 20
21-passenger capacity -----	11 80

Each additional bus trip in excess of 8 per day, 25 cents less than rates for automobile passenger busses of like capacity.

Automobile, passenger, car only, calendar month, good for one round trip daily, including Sundays -----	19 50
---	-------

Trip Rates.

Six (6) one-way trips, good in either direction, for automobile and driver, and twenty-four (24) one-way trips for passenger, good ninety (90) days from date of sale -----	6 90
Fifteen (15) one-way trips, good in either direction, for automobile and driver, and fifteen (15) one-way trips for passenger, good six (6) months from date of sale -----	12 75
Thirty (30) one-way trips, good in either direction, for automobile and driver, good six (6) months from date of sale -----	21 50

Commercial Vehicles and Trucks.

Commercial or delivery automobiles and motor trucks not exceeding 9 feet wide or 20 feet in length, either in load or vehicles -----	85
Commercial or delivery automobiles and motor trucks exceeding 9 feet wide or 20 feet in length, either in load or vehicle -----	1 70
Any load requiring the turning of the boat either to load or unload, additional charge for each turning of the boat -----	10 00
Ditchers, harvesters, steam rollers, tractors and all similar conveyances, machines and vehicles not otherwise specified, per ton of 2000 pounds -----	1 60

Freight.

Freight of all kinds on vehicles, per 100 pounds (minimum charge 20 cents) -----	07½
Freight of all kinds, not on vehicles, per 100 pounds (minimum charge 30 cents) -----	15
(Includes return of empty carriers used in transportation of property and return to shipper.)	

Horses and Wagons.

One (1) horse and wagon or cart -----	1 00
Two (2) horses and wagon -----	1 50
Two (2) horses and dray -----	1 75

Live Stock.

Live stock not otherwise specified, uncrated, when accompanied by attendant (attendant carried free) -----	50
Sheep and hogs, uncrated, when accompanied by attendant (attendant carried free) -----	40
One horse or mule, if accompanied by attendant (attendant carried free) -----	50
Each additional horse or mule -----	40

Motorcycles.

Motorcycles -----	20
Motorcycles, with side car -----	40

Trailers.

Two-wheel trailers attached to automobile -----	45
Four-wheel trailers attached to automobile -----	65
Four-wheel trailers attached to trucks, same as motor trucks.	

DECISION No. 14726.

IN THE MATTER OF AN INVESTIGATION ON THE COMMISSION'S OWN
MOTION OF THE REASONABLENESS OF THE RATES, SERVICE,
RULES, REGULATIONS AND PRACTICES OF THE NORTH-
WESTERN PACIFIC RAILROAD COMPANY.

Case No. 2040.

Decided April 1, 1925.

RATES—AUTO FERRY—SAN FRANCISCO BAY.—On the evidence submitted, rates will not be ordered reduced, but if the utility desires to retain its revenue from auto transportation the rates charged must be comparable with those charged by other ferry companies, especially with those of the Golden Gate Ferry Company, its immediate competitor.

Stanley Moore, for the Northwestern Pacific Railroad Company.

Seth Mann and *S. A. Everstine*, for San Francisco Chamber of Commerce.

Walter H. Nagle, for Sausalito Chamber of Commerce.

SHORE AND SEAVEY, *Commissioners*.

OPINION.

This is primarily an investigation into the service rendered and the reasonableness of the rates charged for the transportation of automobiles, trucks and other vehicles.

A public hearing was held in this proceeding on October 29, 1924, in San Francisco.

The Northwestern Pacific Railroad Company operates, in connection with its railroad, a ferry system between Sausalito and San Francisco, and Sausalito and Tiburon. It owns its wharves and terminal facilities at Sausalito and Tiburon and leases its San Francisco terminal from the State Harbor Commission. Five boats are used in the service, the fifth being a small boat operating between Sausalito and Tiburon. The distance from the Sausalito terminal to the San Francisco terminal at the foot of Market street is approximately six and one-half miles.

The first boat leaves San Francisco at 6.45 a.m., and Sausalito at 6.00 a.m. An hourly service is given, the last boat leaving San Francisco at 1 a.m., and Sausalito at 12.20 a.m.

The ferry service of the Northwestern Pacific Company is primarily a passenger service. Prior to the advent of the Golden Gate Ferry Company into the auto ferry business, the local auto traffic was handled by the Northwestern Pacific Company's ferry. Subsequent to that time this company has carried a very limited number of automobiles. In the meantime the auto traffic has increased to such an extent that congestion occurs at the Golden Gate Ferry during the peak traffic days of the summer. At these times the Northwestern Pacific runs an auxiliary service to take care of some of this heavy traffic. The greater portion of this company's revenue from vehicular traffic is earned at these times. The company estimates that an average of only three automobiles per boat are carried.

No valuation was prepared in this case. The Commission's department of finance and accounts reported that no definite segregation of revenue and expense as between vehicular and passenger transportation is made in the company's accounts. Consequently no satisfactory statement of gain or loss on its vehicular transportation can be made. The accountant of the Commission's department of finance and accounts broadly estimates that the company lost between \$5,103.68 and \$16,073.33 during 1923 in the transportation of automobiles. This estimate is supported by the company's testimony, although no detailed statement of profit and loss was submitted by it.

Mr. Palmer, president and general manager of the Northwestern Pacific Railroad Company, stated that the company would suffer a loss during 1924 on its entire business, including a proportionate loss on its ferry service.

It appears, however, that without in any way encroaching upon its transportation of passengers and general freight, this company is able to make provision for the transportation of automobiles, which Mr. Palmer referred to as a merely incidental business, and that considerable revenue is actually derived from such transportation, not only of automobiles but also of passengers carried therein.

This revenue, accordingly, may be considered as substantially in excess of any additional expense incurred therefrom. The revenue derived in 1923 from vehicular transportation, exclusive of revenue from passengers carried in vehicles, amounted to \$64,674.63.

If the company is to retain this revenue, the rates charged must be comparable with those charged by other ferry companies, especially with those of the Golden Gate Ferry Company, its immediate competitor.

There is now pending before this Commission a proceeding similar to this, in which the rates of the Golden Gate Ferry Company are under investigation. If any reduction is made in the rates charged by the latter company, it is probable that the Northwestern Pacific Railroad Company will desire to voluntarily reduce its ferry rates for automobile transportation accordingly.

After careful investigation of all the evidence in this case, it is our conclusion that no reduction in rates should be ordered by this Commission at this time, and that this proceeding should be dismissed.

The following form of order is recommended:

ORDER.

A public hearing having been held in the above entitled proceeding, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that the above entitled proceeding be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of April, 1925.

DECISION No. 14727.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S
OWN MOTION OF THE REASONABLENESS OF THE RATES,
SERVICES, RULES, REGULATIONS AND PRACTICES OF RICH-
MOND AND SAN RAFAEL FERRY AND TRANSPORTATION
COMPANY.

Case No. 2042.

Decided April 1, 1925.

Henry A. Jacobs and G. B. Blanckenburg, for the Richmond and San Rafael Ferry
and Transportation Company.

SHORE AND SEAVEY, Commissioners.

OPINION.

This is primarily an investigation into the service rendered and the reasonableness of the rates charged for the transportation of automobiles and the passengers carried therein, by the Richmond and San Rafael Ferry and Transportation Company, which, for convenience, will be designated herein sometimes as the Ferry Company.

A public hearing was held in this proceeding on November 24, 1924, in San Francisco.

The properties owned by the Ferry Company and used in connection with its auto ferry operation include wharves, slips and buildings at Richmond, Contra Costa County, and at Point San Quentin, Marin County, and the auto ferry steamers *Charles Van Damme*, City of Richmond and the *City of San Rafael*.

On week days the first ferryboat leaves Richmond at 7 a.m., and prior to June, 1924, a schedule with a forty-minute headway was operated until 7.40 p.m. On Saturdays, Sundays and holidays a special twenty-five-minute headway has been maintained. The distance from the Richmond terminal to the San Quentin terminal is approximately 3.76 miles and about twenty-five minutes are required to make the trip. In order to improve the service and to maintain a twenty-five-minute headway each day during the summer months, a third boat, the *City of San Rafael*, was constructed and placed in operation during June, 1924. This ferryboat has an auto capacity of approximately 60 automobiles, making a total capacity of 162 automobiles per hour for the Ferry Company.

The service now being rendered by the company is reasonably adequate for the volume of business now offered at this location.

The Ferry Company operates its boats and terminals with precaution and the service appears to be reasonably safe, considering the fact that the transportation of automobiles by boat is at all times to some extent a hazardous business.

The remaining issue to be passed upon in this proceeding is the reasonableness of rates charged by the Ferry Company for its services.

A valuation was introduced as evidence by the Commission's engineering department, and is composed of an inventory and appraisal as of June 30, 1924, with four phases of value shown:

	Richmond terminal and line equipment	San Quentin terminal	All property owned and used
Historical reproduction cost-----	\$618,482 00	\$49,431 00	\$667,913 00
Historical reproduction cost less depreciation -----	545,723 00	34,212 00	579,935 00
Reproduction cost new-----	662,267 00	53,406 00	715,673 00
Reproduction cost less depreciation----	575,671 00	36,714 00	612,385 00

The company offered no objection to the values found.

It is our conclusion, after careful consideration of the evidence, that the proper rate base to be used for the determination of a fair and equitable rate of return on the investment for the purpose of this proceeding is the sum of \$683,323, which sum includes an allowance of \$15,410 for working capital and material and supplies.

It has been estimated that an increase of at least 10 per cent in traffic, and thus in revenue, could be expected reasonably for the coming year over the preceding year, based on the present rates and service.

Mr. Van Damme, president of the company, testified that he expected to lose some of the present traffic when the Carquinez straits bridge is completed, particularly on crowded days, and also testified that the government is investigating the possibility of the construction of a dam from McNear's point to Richmond, and if a causeway were constructed for vehicular use it would make it unprofitable for the Ferry Company to continue its service.

It may be several years before the Carquinez straits bridge is completed and it is doubtful if much of the traffic now using the Richmond and San Rafael route will change to the bridge route as these two routes do not appear to be directly competitive. From points in Alameda County to the Redwood highway it would require approximately 35 miles additional travel and over one hour additional time to go by way of the bridge route instead of by the Richmond and San Rafael route. The proposed government dam near Richmond is so indefinite as to the probable location, feasibility, cost, and time required for construction, that it can not be considered seriously as a factor in this case.

The company's records show that during the year 1923 a total of \$110,583.68 was expended for the maintenance and operation of boats

and terminals. The engineering department's estimate for the following year is \$144,675, an increase of \$34,091.32, or 30 per cent. This estimated increase is due to the wages for an additional crew to operate the third boat, which was not in service during 1923, and for the additional fuel oil and supplies required for this increase in service. The base price of fuel has increased from \$1 a barrel to \$1.40 a barrel at the date of the hearing hereof, or a total estimated increase for oil of \$11,407.

The Ferry Company did not protest the estimate of operating expenses submitted by the Commission's engineering department.

Included in the above operating expenses for the year 1923, and the estimated operating expenses for the following year, is an item of \$6,000 for the rent of the San Quentin terminal, which is leased from the North Bay Realty and Development Company, the stockholders of which are the same as the stockholders of the Ferry Company.

The portion of this land over which the Ferry Company has a limited use for a right of way, consists of a narrow strip about 1000 feet long, with a maximum area of about two acres. The company paid \$125 per month for rent of this property (exclusive of improvements which were owned by the company) in 1920, with the privilege of leasing it for five years more at \$150 per month. If the value of the entire physical property such as wharf, slip, buildings, roadway, etc., is to be included in the rate base, it is our conclusion that \$150 a month would be a fair amount for the privilege of crossing this land, and the engineering department's estimate should be reduced from \$6,000 to \$1,800 per year.

In view of the evidence, the engineering department's estimate of operating expenses should be revised as follows:

Operating expenses, including depreciation (Commission's Exhibit No. 3, Table No. 4)-----	\$209,733 00
Deduct for rent of San Quentin Terminal (\$6,000, less \$1,800)-----	4,200 00
Revised estimate of operating expenses-----	\$205,533 00

On the basis of a 10 per cent increase in traffic and revenue, the following forecast of the estimated results from operation for the ensuing year may be stated as follows:

Total operating revenue -----	\$303,478 00
Operating expenses, excluding depreciation-----	\$180,716 00
Depreciation -----	24,817 00
	<hr/> 205,533 00
Operating income -----	\$97,945 00
Taxes, property and corporation -----	\$2,080 00
Income tax -----	11,983 00
	<hr/> 14,063 00
Net income -----	\$83,882 00

This is equivalent to a return of 12.3 per cent on a rate base of \$683,323.

This Ferry Company recently has greatly improved the service rendered to the traveling public, by building a new terminal at Richmond which has materially shortened the water haul and by acquiring a third auto ferryboat, thus decreasing the headway and shortening the time of waiting for the ferryboats both on normal and peak-load days. Comparing the service rendered by this Ferry Company and its cost, with the services rendered by other similar ferry companies, and their costs, we find that this Ferry Company is remarkably efficient in maintaining a high class of service with a comparatively low capital expenditure and low operating expense.

If the rate of return on investment were the only measure of reasonableness of rates, we should be justified in ordering a reduction in the rates charged by this Ferry Company. But the efficiency with which the business is conducted, the adequacy of the service, the promptness with which facilities are provided to meet the needs of the service, the hazard of the enterprise, and other matters are all factors entering into a determination of equitable rates to be charged. Moreover, a substantial reduction in rates charged by several of the other auto ferry companies will be necessary, to bring their rate of return upon their investment down to a point comparable with the rate of return now secured by this Ferry Company. Until the effect of such reductions in the rates of other companies can be more accurately measured, and until the full effect upon this Ferry Company of the installation of its third ferryboat can be determined, it is not deemed advisable to disturb the rates of the Richmond and San Rafael Ferry and Transportation Company. In consideration of these factors and all of the evidence in this case, it appears that no reduction in the rates charged by this Ferry Company should be ordered at this time, and this proceeding should be dismissed.

The following form of order is recommended:

ORDER.

A public hearing having been held in the above entitled proceeding, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that the above entitled proceeding be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of April, 1925.

DECISION No. 14728.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES, SERVICE, RULES, REGULATIONS AND PRACTICES OF THE RODEO-VALLEJO FERRY COMPANY.

Case No. 2043.

Decided April 1, 1925.

RATES—AUTO FERRY—SAN FRANCISCO BAY—JURISDICTION.—Rodeo-Vallejo Ferry Company having protested the jurisdiction of the Commission to pass upon this case, and having claimed that under section 2843 of the Political Code the right to determine the rates of this ferry service is exclusively with the board of supervisors of Contra Costa County, the Commission finds no merit in this contention, and holds that it has jurisdiction under the Public Utilities Act.

RATE BASE.—The rate base to be used for the determination of a fair and equitable return on the investment for the purpose of this proceeding will be the sum of \$539,672.

COMPETITION.—Commission concludes that this ferry company will not suffer to any great extent from competition until the Carquinez toll bridge is completed, but at that time it probably will be compelled to discontinue business.

RATE OF RETURN.—Under the Commission's analysis of the utility's operations, the present rates would result in a return of 36.7 per cent per annum on the reasonable rate base, established by the Commission. This return is excessive and rates that produce such a high return are unjust and unreasonable.

AMORTIZATION.—Provision is made in the estimates herein used for the complete amortization of the nonsalvageable properties within two years.

ESTIMATED REVENUE.—Under the new rates fixed by the Commission the utility is expected to have an annual revenue of \$415,721. Less \$339,610 operating expenses and amortization charges, the utility should have a net income of \$76,110.62.

Peter tum Suden and Dudley Sales, for the Rodeo-Vallejo Ferry Company.

Seth Mann and S. A. Everstine, for the San Francisco Chamber of Commerce.

SHORE AND SEAVEY, Commissioners.

OPINION.

This is primarily an investigation into the service rendered and the reasonableness of the rates charged for the transportation of automobiles and the passengers carried therein, by the Rodeo-Vallejo Ferry Company, which, for convenience, will be designated herein sometimes as the Ferry Company.

Public hearings were held in San Francisco on November 12th, 13th, 18th, 19th, 25th, 26th and 29th, 1924.

The properties owned by the Ferry Company, and used in connection with its auto ferry operation across the Carquinez straits, include wharves, slips and buildings at Shortway in Contra Costa County, and at Morrow Cove in Solano County, an oil tank and foundation at South Vallejo, and the auto ferry steamer *Issaquah*.

There are certain properties at Valona (near Crockett), Contra Costa County, consisting of a causeway, wharf and slip which were purchased by the Rodeo-Vallejo Ferry Company in March, 1922, from the Six-Minute Ferry.

The line equipment consists of the owned ferryboat *Issaquah* and the chartered ferryboat *San Jose*.

On week days the first boat leaves Shortway at 6.30 a.m. Service continues on a thirty-minute headway until 8 a.m.; then on a twenty-minute headway until 8 p.m.; then on a thirty-minute headway until 11 p.m. On holidays and Sundays, additional service is given at 6 a.m., 10.45 p.m., 11.15 p.m., 11.45 p.m., and 12.45 a.m. The steamer *Issaquah* ties up for the night at the South Vallejo wharf and the first trip in the morning and the last trip at night are made from and to this location.

On March 21, 1922, the Rodeo-Vallejo Ferry Company purchased all of the physical property owned by the Six-Minute Ferry, which formerly operated between Morrow Cove and Valona, and also the passenger ferry operating between Mare Island and Vallejo, including the steamers *San Jose* and *Vallejo*. That portion of the property operated between Mare Island and Vallejo was sold in April, 1923, for \$30,000. The steamer *Avon J. Hanford* was sold in December, 1922, to the Golden Gate Ferry Company for \$215,000 and the steamer *San Jose* was sold in September, 1923, to the American Toll Bridge Company of California for \$148,000.

It appears that in September, 1922, the Ferry Company decided to build a toll bridge across the Carquinez straits and procured a franchise from Contra Costa County to operate the same for a period of twenty-five years, and also a permit from the United States War Department for its construction. To carry out the bridge project a new corporation was formed, the American Toll Bridge Company, which has acquired all of the stock of the Rodeo-Vallejo Ferry Company. At the present time there are two bridge companies:

1. The American Toll Bridge Company, a Delaware corporation, having an authorized capital stock of \$5,000,000.
2. The American Toll Bridge Company of California, also a Delaware corporation, having a capital stock of \$760,000. The stock of this latter company has been distributed to holders of the Ferry Company stock.

The interrelation between the two bridge companies is given in some detail on the stock subscription contract blank, which was introduced as evidence and which reads, in part, as follows:

The American Toll Bridge Company issued 5,000,000 shares, all of its capital stock, in exchange for tangible and intangible assets, franchises and property, owned by the American Toll Bridge Company of California, a Delaware corporation. The American Toll Bridge Company of California transferred 760,000 shares, all of its capital stock, for these tangible and intangible assets and the franchises and property. The American Toll Bridge Company of California allotted 2,500,000 shares of the American Toll Bridge Company's capital stock at \$1 per share for a portion of these assets and in consideration for services; and, in addition, allotted the balance

of the 2,500,000 shares of the American Toll Bridge Company's capital stock to be sold to the public at \$2 per share.

To obtain a permit in California to sell a portion of the American Toll Bridge Company's stock, the American Toll Bridge Company of California donated to the American Toll Bridge Company 1,000,000 shares of the American Toll Bridge Company's stock, which it owned. The American Toll Bridge Company of California is required to escrow that 2,500,000 shares of the American Toll Bridge Company's capital stock issued for a portion of the assets and in consideration for services until an appraisal of the tangible property of the American Toll Bridge Company is filed with and accepted by the Commissioner of Corporations. The Commissioner will then authorize the release of that portion of the 2,500,000 shares of American Toll Bridge Company stock issued for tangible assets upon the basis of \$1 per share for an accepted appraised value of the tangible property.

Of the 2,500,000 shares of American Toll Bridge Company's stock to be sold to the public, 1,500,000 shares are to be sold outside of the State of California upon no more favorable terms than the balance, or 1,000,000 shares of American Toll Bridge Company's stock authorized to be sold in the State of California.

The record in this case makes it clear that the group of stockholders that control the American Toll Bridge Company of California do, through the two toll bridge companies, control the Ferry Company.

The service now rendered by the Ferry Company appears to be reasonably adequate for the volume of business now offered at this location. The auto capacity of the two boats is approximately 132 machines per hour each way. The company is now operating its boats and terminals with precaution and the service appears to be reasonably safe, considering the fact that the transportation of automobiles by boat is at all times, to some extent, a hazardous business.

The remaining issue to be passed upon in this proceeding is the reasonableness of rates charged by the Ferry Company for services.

Counsel for the Ferry Company protested the jurisdiction of the Commission to pass upon this case and claimed that under section 2843 of the Political Code, the right to determine the rates of this ferry service is exclusively with the board of supervisors of Contra Costa County.

We are not impressed with the merit of this contention. The Public Utilities Act, under which this Commission functions, definitely places jurisdiction over rates of a carrier of this kind in this Commission, and nothing has been brought to our attention that convinces us that these provisions of the Public Utilities Act do not apply.

A valuation of the physical property owned by the Rodeo-Vallejo Ferry Company was introduced as evidence by the Commission's engineering department. The following values as of June 30, 1924, are reported upon:

	Operative property	Nonoperative property	Total operative and nonoperative property
Historical reproduction cost.....	\$360,207 00	\$61,492 00	\$421,699 00
Historical reproduction cost, less depreciation	236,149 00	38,746 00	274,895 00
Reproduction cost new	385,764 00	65,207 00	450,971 00
Reproduction cost new, less depreciation..	249,216 00	40,604 00	289,820 00

Unit prices for the reproduction cost new basis have been estimated to be the average market price for an estimated construction period of six months, terminating on the date of valuation.

The Valona wharf and slip have been classified as nonoperative property. Evidence was submitted (Company's Exhibit No. 14) which shows that the Valona terminal was used, in part, on July 4th, 6th and 13th, August 30th and 31st, and September 1st and 2d, 1924, for a total of 182 trips and transported a total of 18,810 autos, or approximately 4 per cent of the total autos handled during the year. The evidence also shows that in October, 1924, a large part of the Ferry Company's trestle approach was removed to allow the Southern Pacific Company to relocate its tracks and also to allow the American Toll Bridge Company room to construct one of the bridge piers. The portion of trestle and bridge removed was rebuilt at a different location, apparently for the use of, and at the expense of the Toll Bridge Company, which has built a large construction wharf, partly on the Ferry Company's land. The evidence shows that the new structure had not as yet been used by the Ferry Company. It is physically possible to use the approach, but apparently the Ferry Company, when the bridge was rebuilt, had no intention of using it for auto ferry purposes, for in such use it would now require a sharp turn into the Bridge Company's material yard and then another sharp turn to the causeway. The bridge across the Southern Pacific tracks has a clear width of but 9.2 feet, a width too small to allow vehicles to pass and suitable for one-way travel only.

Mr. Klatt, secretary of the Rodeo-Vallejo Ferry Company, testified that the steamer *Issaquah* ties up at night at the South Vallejo Wharf and the first trip in the morning and the last trip at night are made from or to this wharf. Company's Exhibit No. 14 shows that 3731 automobiles used this wharf and slip during the year, or less than one per cent of the total number of automobiles transported by the company. Prior to January 1, 1924, the company had apparently abandoned this wharf and slip and it has written off the entire cost from its capital accounts. The value of this slip is not included in the engineering department's valuation nor is it included in the company's statement of investment, in Company's Exhibit No. 10. The oil tanks, foundations and dolphins at South Vallejo, which are owned and used by the company, have been included in the valuation.

Counsel for the Ferry Company, in his brief (page 52), complains of the fact that the engineering department of the Commission allows the oiling facilities in the valuation as operative property while excluding the land upon which the tanks are located as nonoperative property. It appears, however, that these oil tanks and foundations are not located on the company's property at all, being constructed outside of

the bulkhead line, and therefore located in navigable waters and upon land owned by the state.

The Ferry Company offered its Exhibit No. 10 as a statement of its total investment as of September 30, 1924. The representations made in this exhibit are as follows:

		Total to September 30, 1924
Investment as per books—		
Tangibles	-----	\$375,258 84
Intangibles	-----	9,270 86
		<hr/>
		\$384,529 70
Claims for—		
Services rendered without compensation	-----	3,000 00
Interest on investment at 6% during construction	-----	8,717 82
Working capital	-----	30,900 00
		<hr/>
Total investment claimed by company-----		\$427,147 52

The only items that properly should be included in such a statement are those representing actual expenditures for investment in the property. The record shows that no payments were ever made by the company for the items of claims designated "Service rendered without compensation" or "Interest on investment during construction," nor does the company expect to pay the amounts represented by these two items. All interest actually paid is included in the total investment account or if not actually paid out as interest it has been included in the prices charged by the various contractors. Working capital has been estimated at \$18,700 by the engineering department and \$30,900 by the company. The company's business is practically all on a cash basis, the customers paying in advance for the services to be rendered. It has been the policy of the Commission not to allow working capital for utilities of this character, except for necessary materials and supplies, and the engineering department's estimate of \$18,700 appears to be quite liberal for all necessary material and supplies for the operation of such a Ferry Company.

The engineering department's valuation (total operative, nonoperative property and working capital) exceeds the company's book investment and claims by \$13,251.48, or 3 per cent. The main objection that the company has to the engineering department's valuation as a rate base, applies to the question of whether the Valona property is operative or nonoperative. It is our conclusion that the Valona property is now nonoperative property and it is practically used only by the American Toll Bridge Company in connection with the construction of the Carquinez straits bridge.

The steamer *San Jose* was acquired by the Ferry Company in the purchase of the Six-Minute Ferry property in March, 1923. It was sold to the American Toll Bridge Company of California in September, 1923. The American Toll Bridge Company of California was organized

to take care of the interests of the Ferry Company's stockholders in the American Toll Bridge Company, and this transaction is entirely an intercompany matter. The Ferry Company derives no benefit at the present time that it did not have prior to the sale, and the rent paid appears excessive.

For operative purposes, the value of the steamer *San Jose* to the Ferry Company is the same whether expressed in terms of its value in the rate base, or in terms of a reasonable rental return on its value in operating expense. It will be in the interest of fairness and simplicity to allow a return upon its value as operative property. This is the method generally followed by this and other regulatory bodies. (See Decision No. 11457, *re Pacific Gas and Electric Co.*, 22 C. R. C. 736, 768. See also, *re Portland Railway L. and P. Co.*, P. U. R. 1917 D. 962, 975, Oregon Public Service Commission.)

The book value of the steamer *San Jose* (\$160,765) will therefore be included in the rate base.

After careful consideration of the evidence, it is our conclusion that the rate base to be used for the determination of a fair and equitable return on the investment, for the purpose of this proceeding, will be the sum of \$539,672.

A forecast of the probable revenue to be received for the following year has been prepared (Commission's Exhibit No. 3, page 5) and on the basis of the present rate scale and present operating conditions, it has been estimated that for the following year the revenues from July 1, 1923, to June 30, 1924, will be increased approximately 10 per cent.

Mr. A. L. Black, consulting engineer for the company, has prepared a forecast of the probable traffic (Company's Exhibit No. 13), which shows an estimated increase for the year 1924 of 20 per cent over 1923 and for the year 1925 of 9 per cent over 1924. It would appear from Mr. Black's estimate that the engineering department's estimate of traffic is conservative.

Mr. Klatt testified that the American Toll Bridge Company is now building a bridge across the Carquinez straits at Crockett which, when completed, will make it unprofitable for the Ferry Company to continue its service, but the date when this bridge actually will be completed is indefinite. Mr. Klatt also testified that the American Toll Bridge Company is now constructing another toll bridge three miles east of Antioch, which may be completed in the latter part of 1925 and which, when completed, will compete with the Rodeo-Vallejo Ferry Company. The distance to Sacramento from the East Bay District is approximately the same by way of the Rodeo-Vallejo Ferry as by way of the Antioch toll bridge but there are now approximately eleven miles of road on the Sherman Island levee that have not been improved with a hard surface pavement and the traffic for that route has to ferry across Three-Mile

Slough on a small ferryboat operated by the county. There is no evidence to show that the improvement of the county road or the bridge has been authorized, and the Antioch toll bridge can not compete to any great extent until a concrete highway is constructed on the eleven miles of road now unpaved and until a bridge is constructed over Three-Mile Slough. It is our conclusion that this Ferry Company will not suffer to any great extent from competition until the Carquinez toll bridge is completed, but at that time it probably will be compelled to discontinue business.

At its present rates the Ferry Company then should earn an average yearly revenue, until the Carquinez bridge is open for traffic, of at least the revenue received from July 1, 1923, to June 30, 1924, plus 10 per cent, or approximately \$570,800. This figure does not take into account any increase of traffic that will result inevitably from a reduction in rates, nor does it provide for any increase of traffic in 1926 over the traffic of 1925.

Forecasts of the operating expenses were prepared (Table No. 4, Commission's Exhibit No. 3), by the engineering department of the Commission; and company's Exhibit No. 10, financial statements, with an estimate of income and expenses, was prepared by J. G. Hill, accountant for the company. A comparison of the totals of the two estimates is shown in Table No. 1. The company's estimate exceeds that of the engineering department of the Commission by \$119,116. This difference is accounted for partially by a difference in principle in the computation of depreciation, the company figure for this item amounting to \$74,309.64 and the figure of the Commission's engineers amounting to \$27,594. The former figure is computed on a straight line depreciation basis not used by the Commission and includes a considerable amount of amortization, which is provided for elsewhere by the Commission's engineers. This difference accounts for \$46,715.60 of the above excess figure of the company. Further, the company's figure includes rental for use of the steamers *Hanford* and *San Jose*, which should be eliminated, as the *Hanford* is not now under rental nor used by this company, and the Commission's engineers have allowed for the value of the *San Jose* in the rate base instead of on a basis of rental. After accounting for these differences in the basis of estimating operating expenses, we find that the company's estimate only exceeds that of the engineering department by 3 per cent. This difference is further accounted for below in other items, including excessive amounts for general expense in the company's estimate.

Mr. Klatt testified that the board of directors had decided to operate an all-night service during the summer months and that this service would increase the operating expenses, especially fuel oil and wages for the crew. If an all-night service is inaugurated it should attract

enough new business to pay for the additional fuel and wages or it is not warranted at this time.

In general, the engineering department's and the company's estimates are reasonably close for the expense of operating terminals with the exception of maintenance of the wharves, slips and roadway. The company presented a large amount of evidence to show that its wharves and slips have been damaged to a great extent by the ravages of the teredo and would require a large expenditure for renewals. It was generally agreed by both the engineering department and the company's engineers that the continued use of green piles in this locality is unwise except for the few piles required at the head of the slip to act as cushion piles. If the company is to discontinue operation by the end of 1926, or in about two years as hereinafter discussed, the rebuilding of these wharves and slips is not entirely justified, nor is the expenditure of large sums to maintain stand-by terminals justified. The green piles in certain portions of the Shortway slip undoubtedly should be replaced with creosoted piles, but it does not appear that the wharf and causeway should require any major replacements in the next two years. At Morrow Cove the wharf is built entirely with green piles, some of which should be replaced with creosoted piles.

The engineering department estimated \$8,000 annually for the maintenance of these two terminals. This amount appears adequate to take care of the ordinary repairs and maintenance of the two terminals and also that portion of replacement work that can be charged properly to operation. The cost of the replacing of the green piles with creosoted piles should be charged, in part, to the accounts of investment, reserve for depreciation, and operation, respectively. No attempt has been made at this time to forecast the proper amount to be charged to the various accounts, and as it appears that the company may be forced by the opening of the Carquinez bridge to discontinue ferry service in two years, the estimated cost of replacements, for the purposes of this proceeding, will be considered as an extraordinary expense and prorated over a period of two years.

After a consideration of all the evidence in this regard, it is our conclusion that for the following two years the most equitable estimate of the maintenance and repair of the Shortway and Morrow Cove terminals is as follows:

	Shortway	Morrow Cove	Total
Ordinary repairs at \$2,000 per year.....	\$4,000 00	\$4,000 00	\$8,000 00
Replacements and strengthening of slips and wharf	14,000 00	11,500 00	25,500 00
Morrow Cove road		5,000 00	5,000 00
Total for two years.....	\$18,000 00	\$20,500 00	\$38,500 00
Total for one year.....			19,250 00
Amount previously allowed on operating expense for each year.....			8,000 00
Total extraordinary expense for one year.....			\$11,250 00

The Ferry Company's general expense is quite high. The company pays directors' fees on the basis of \$50 per meeting and holds an average of two meetings per month. One hundred dollars a month is a large fee to pay directors for a company of this character. The company allows its president and secretary each \$250 per month for traveling expenses, in addition to salaries of \$6,000 each. These officers also receive large salaries as officers of the Golden Gate Ferry Company, and spend only a relatively small portion of their time in connection with the operating of the Rodeo-Vallejo Ferry Company, each having other interests which take a large part of his time.

The engineering department's estimate of \$40,300 for general expenses is liberal, and if the company is soon to discontinue business we see no reason to increase these expenses.

The revised forecast of operating expenses will be as follows:

Operating expenses, including depreciation, Commission's Exhibit No. 3, Table No. 4.....	\$251,984 00
Extraordinary expense, rebuilding terminals.....	11,250 00
Revised estimate of operating expenses.....	\$263,234 00,

The amount of depreciation estimated by the engineering department of the Commission would ultimately take care of the loss of the depreciable property if the Ferry Company were to remain in business for an indefinitely long period, but it is apparent that when the Carquinez bridge is completed, the Ferry Company will then find it unprofitable to operate. The company contends that the rates and fares should not be reduced until a sum has been recovered from earnings equal to the amount invested in the ferry business. The company, since July 1, 1923, has been setting aside for depreciation of the various units of the property which they claim will be practically worthless on the completion of the Carquinez straits bridge, such amounts as will be sufficient to completely amortize the nonsalvageable portion of the property by December 31, 1925.

The date of the completion of this bridge is an important factor in the determination of the amount that properly should be allowed the Ferry Company annually toward the amortization of the nonsalvageable portion of its property.

Considering the evidence in this case, it is unreasonable to assume that the Carquinez straits bridge can possibly be completed by the end of the year 1925. Mr. Klatt testified that he expected the bridge to be completed early in 1926, then later testified that the Ferry Company

wanted to hold the Valona property to use for auto ferry purposes instead of renewing the Shortway lease if the bridge was not completed by October, 1926. The bridge is estimated to cost approximately \$5,000,000 but no showing has been made that the bridge has as yet been financed. The American Toll Bridge Company has started the construction of the large piers located in the center of Carquinez straits, but the structural steel had not been ordered when the hearings of this case were held. It is reasonable to conclude from the magnitude of the work required to construct this bridge, that it will not be completed and ready for traffic prior to December 31, 1926.

The sales value of the steamer *Issaquah*, according to the engineering department's valuation, should be over \$25,000. Captain E. C. Genereaux, witness for the company, estimated that at the end of two years the steamer *Issaquah* would be worth only \$5,000 for junk. Capt. Genereaux estimates the life of a wood hull at twenty years and evidently from his testimony believed that the *Issaquah* was constructed in 1914, and it is only ten years old. The engines and the boilers were acquired second-hand and the boat, to some extent, is obsolete. It is our conclusion that the *Issaquah*, if properly maintained, can be sold for some useful purpose when the Ferry Company goes out of business and will have a salvage value of at least \$10,000.

Capt. Genereaux estimated that the salvage value of the steamer *San Jose* is \$15,000. The engineering department estimated that the steamer *San Jose* would have a fifteen-year life from the date of rebuilding the steamer for the present service. It is our conclusion that, if properly maintained, the steamer *San Jose* will have a salvage value of at least \$20,000. The company has, to January 1, 1925, paid a rent of \$5,000 per month, or a total rent of \$75,000. The value of the steamer *San Jose* is amortized as follows:

Book value	\$160,765 00
Less salvage value	20,000 00
Amount to be depreciated	\$140,765 00
Depreciation prior to sale.....	12,765 00
Amount paid for rent \$75,000, less \$16,077, return for 15 months on \$160,765 book value of steamer <i>San Jose</i>	58,923 00
Amount to be amortized.....	\$60,077 00

To amortize the company's depreciable property by the end of 1926 would require the setting aside each of the years 1925 and 1926, the sum of \$76,376.38. The following table gives the amount of depreciation that has already been set up by the company and the amount that

will have to be set up to amortize the depreciable property by December 31, 1926:

	Book value as of Sept. 30, 1924	Salvage value estimated	Book value less salvage	Total depre- ciation and obsolescence to Sept. 30, 1924	Total to be amortized
Wharves, docks and terminals -----	\$176,933 11	\$8,846 65	\$168,086 46	\$103,648 84	\$64,437 62
Furniture and fixtures -----	1,675 68	167 57	1,508 11	528 24	979 87
Miscellaneous equip- ment -----	6,065 00	606 50	5,458 50	3,782 74	1,675 76
Real property -----	35,473 39	35,473 39	-----	-----	-----
Intangibles -----	9,270 86	-----	9,270 86	-----	9,270 86
Miscellaneous -----	11,892 00	-----	11,892 00	-----	11,892 00
Steamer <i>Issaquah</i> ----	98,160 26	10,000 00	88,160 26	19,631 11	68,529 15
Steamer <i>San Jose</i> ----	160,765 00	20,000 00	140,765 00	12,765 00	128,000 00
Miscellaneous float- ing equipment----	840 40	-----	840 40	179 49	660 91
	<u>\$501,075 70</u>	<u>\$75,094 11</u>	<u>\$425,981 59</u>	<u>\$140,535 42</u>	<u>\$285,446 17</u>
Less amount paid as rent of <i>San Jose</i> -----					58,928 00
Less depreciation for two years, charged to operating expenses-----					55,188 00
Less depreciation and obsolescence, October 1, to December 1, 1924----					18,577 41
Total to be amortized in two years-----					<u>\$152,752 76</u>
Total to be amortized in one year-----					<u>\$76,376 38</u>

Stated in summary form, it appears that with the present rates and service in effect, the following table fairly represents the average results that may be expected from the Ferry Company's operations for each of the two ensuing years:

Total operating revenue-----	\$570,800 00
Operating expenses-----	\$263,234 00
Amortization -----	76,376 38
	<u>339,610 38</u>
	<u>\$231,189 62</u>
Taxes—Property and corporation -----	\$5,082 00
Taxes—Income -----	28,263 00
	<u>33,345 00</u>
Operating income -----	<u>\$197,844 62</u>
Operative property, Commission's valuation as of June 30, 1924-----	360,207 00
Book value steamer <i>San Jose</i> -----	160,765 00
Materials and supplies, and working capital-----	18,700 00
Total -----	<u>\$539,672 00</u>

The return on the company's investment shown by these estimated financial results would be 36.7 per cent per annum. This return is excessive, and rates charged for the transportation of automobiles that produce such a high return are unjust and unreasonable.

The attention of the Commission during the hearing of this case was called to certain provisions in the Political Code governing a maximum return of 15 per cent allowed to bridge companies connecting highways at opposite points across certain parts of the San Francisco Bay. The Commission is not governed in fixing rates by the

provisions of the Political Code, and has not heretofore allowed rates yielding so high a return as 15 per cent. Moreover, there is nothing in the evidence submitted in this proceeding which would justify the Commission in allowing a return of 15 per cent upon the rate base herein established. In only a few cases where hazards were extraordinary or where invested capital was relatively small in proportion to the amount of operating revenues and expenses, has the Commission allowed a return in excess of approximately 8 per cent.

The hazards to the operating properties of ferryboats operating on San Francisco Bay are in certain respects greater than those of most other utilities. It is also true that the ratio of invested capital to the amount of operating revenues and expenses is such that any considerable fluctuation in operating revenues or expenses from the amount estimated might make an important variation in the return. Provision is however made in the estimates herein used for the complete amortization of the nonsalvageable properties of this Ferry Company within two years.

The Commission has taken all these facts into consideration in fixing the rates herein, which, with due efficiency and economy on the part of the company, will reasonably take care of these conditions and provide an adequate return upon the company's investment.

It is estimated that the rates set forth in Exhibit "A" attached hereto will give substantially the revenue required. The effect of the rate changes will be approximately as follows:

		Present rates	New rates
Automobiles -----	61 per cent	\$348,188 00	\$255,337 00
Passengers -----	29 per cent	165,532 00	107,585 00
Trucks -----	3 per cent	17,124 00	12,843 00
Busses -----	2 per cent	11,416 00	11,416 00
Miscellaneous -----	5 per cent	28,540 00	28,540 00
	100 per cent	\$570,800 00	\$415,721 00

Based upon the various items set out in the foregoing discussions of cost of operations, revenues, and rate base, the results of operation for the future may reasonably be assumed as follows:

Revenue -----		\$415,721 00
Operating expenses and amortization -----		339,610 38
		\$76,110 62
Taxes—Property and corporation -----	\$5,082 00	
Taxes—Income -----	8,878 00	
		13,960 00
Net revenue -----		\$62,150 62

This operating income shows a somewhat higher rate of return upon the rate base herein established than the Commission would be justified in allowing to a highly stabilized utility. The Commission, however, has taken into account the various factors of hazard, competition,

obsolescence, ratio of invested capital to operating revenue and expense and other conditions above set forth; and in the reduction of rates herein provided, believes that a substantial relief is hereby afforded to the traveling public and that the result will be an accelerated traffic, beneficial to the public and to the company.

The following form of order is submitted:

ORDER.

The Commission having, on its own motion, instituted an investigation into the reasonableness of rates, services, rules, regulations and practices of the Rodeo-Vallejo Ferry Company; public hearings having been held; the Commission being fully apprised of the facts; the matter being under submission and ready for decision:

It is hereby found as a fact that the rates charged by the Rodeo-Vallejo Ferry Company are not just and reasonable rates for the service rendered.

Basing its order upon the foregoing finding of fact and other findings of facts contained in the opinion which precedes this order;

It is hereby ordered, that the Rodeo-Vallejo Ferry Company charge and collect for ferry service rendered under filed schedules, the rates set forth in Exhibit "A" attached hereto and made a part hereof, such rates to be filed with this Commission on or before April 20, 1925, and to become effective on and after May 1, 1925.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of April, 1925.

EXHIBIT "A."

**THE RODEO-VALLEJO FERRY COMPANY—LOCAL PASSENGER TARIFF,
Naming One Way and Commutation Fares Between Shortway, Contra Costa County,
and Morrow Cove, Solano County, California.**

FARES.

One way, adult	\$0 10
One way children, 5 years of age and under 12 years of age.....	05
Children under 5 years of age when accompanied by parent or guardian.....	Free
Individual calendar month commutation fare, good daily, including Sundays..	2 00

LOCAL FREIGHT TARIFF,

**Naming Freight Rates Between Shortway, Contra Costa County, and
Morrow Cove, Solano County, California.**

RATES.

Ambulances	\$0 55
Automobiles	55

Commercial or delivery automobiles and motor trucks.

(Not exceeding 7 feet wide or 15 feet in length.)

1-ton capacity and under-----	\$0 55
1-ton capacity -----	75
1-ton capacity -----	75

Commercial or delivery automobiles and motor trucks.

(Exceeding either 7 feet wide or 15 feet in length.)

1-ton capacity and under-----	\$1 15
1-ton capacity -----	1 50
1-ton capacity -----	1 50

Commercial or delivery automobiles and motor trucks.

(Exceeding in load or vehicle both 7 feet in width and 15 feet in length.)

1-ton capacity and under -----	\$1 70
1-ton capacity -----	2 25
1-ton capacity -----	2 25

Commercial or delivery automobiles and motor trucks.

(Not exceeding 9 feet wide or 20 feet long in load or vehicle.)

1½-ton capacity -----	\$0 95
2-ton capacity -----	95
2½-ton capacity -----	1 15
3½-ton capacity -----	1 15
5-ton capacity -----	1 30

Commercial or delivery automobiles and motor trucks.

(Exceeding either 9 feet wide or 20 feet in length either in load or vehicle, or both.)

1½-ton capacity -----	\$1 90
2-ton capacity -----	1 90
2½-ton capacity -----	2 25
3½-ton capacity -----	2 25
5-ton capacity -----	2 60

Commutation Rates.

Automobile and driver, calendar month, one round trip daily including Sunday-\$17 50

CALIFORNIA RAILROAD COMMISSION,

Engineering Department.

TABLE NO. 1.

RODEO-VALLEJO FERRY COMPANY,

Comparison of Estimates of Operating Expenses.

	Estimated one year's expense Commission's Exhibit	Company's Exhibit
	No. 3	No. 10
Operating boats:		
Wages -----	\$81,200 00	\$78,970 94
Oil (fuel and lubricating) -----	29,700 00	27,523 36
Supplies -----	610 00	681 52
Maintenance—		
Steamer <i>San Jose</i> -----	16,870 00	23,899 92
Steamer <i>Issaquah</i> -----	9,640 00	
Rent of steamer <i>San Jose</i> -----	-----	60,000 00
Rent of steamer <i>Hanford</i> -----	-----	1,577 82
Total operating boats -----	\$138,020 00	\$192,653 56
Operating terminals:		
Ticket agents' wages -----	\$6,730 00	\$6,700 00
Other wages -----	3,260 00	4,806 12
Office supplies -----	420 00	544 56
Heat, light, power and water -----	4,350 00	3,197 72
Maintenance of terminals -----	8,300 00	3,880 54
Miscellaneous -----	200 00	252 44
Automobiles -----	1,510 00	1,736 64
Rent of wharves -----	12,300 00	12,302 00
Total operating terminals -----	\$37,070 00	\$33,420 02

Depreciation -----	\$27,594 00	\$74,309 64
Traffic:		
Salaries and expenses of solicitors-----	3,000 00	3,646 86
Advertising -----	6,000 00	6,680 58
Total traffic -----	\$9,000 00	\$10,327 44
Miscellaneous and general:		
Directors' fees -----	\$1,500 00	\$4,800 00
Salary—A. J. Hanford, president-----	6,000 00	6,000 00
Salary—O. H. Klatt -----	6,000 00	6,000 00
Salary—Manager and bookkeeper-----	5,700 00	5,714 00
Printing, postage and stationery-----	600 00	966 34
Telephone -----	590 00	505 12
Traveling and auto expense-----	2,500 00	8,618 90
Legal -----	1,500 00	3,205 13
Auditing -----	2,500 00	6,450 00
Consulting engineer -----	3,000 00	3,000 00
Insurance -----	8,540 00	8,653 70
Dues and subscriptions -----	200 00	289 00
Donations -----	600 00	-----
Welfare of employees-----	1,000 00	3,550 10
Damage to freight-----	35 00	508 82
License -----	35 00	-----
Special services -----	-----	2,128 22
Total miscellaneous and general-----	\$40,300 00	\$60,389 38
Totals -----	\$251,984 00	\$371,100 04

DECISION No. 14729.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES, SERVICES, RULES, REGULATIONS AND PRACTICES OF MARTINEZ-BENICIA FERRY AND TRANSPORTATION COMPANY.

Case No. 2044.

Decided April 1, 1925.

RATES—AUTO FERRY—SAN FRANCISCO BAY—COMPETITION.—Holding that no benefit would accrue to the utility by an increase of rates, and that a decrease of rates should not be ordered at this time the Commission says: "It is not the duty of this Commission to refrain from adjusting the rates of other competitive auto ferry companies to a basis allowing a reasonable and adequate return, and giving the general public the benefit of such adjusted rates as applied to such competitive companies, even though its effect may be to prove such a limited public need for the services of this Ferry Company as to render its operations unprofitable."

J. E. Rodgers and A. F. Bray, for the Martinez-Benicia Ferry and Transportation Company.

SHORE AND SEAVEY, Commissioners.

OPINION.

This is primarily an investigation into the service rendered and the reasonableness of the rates charged for the transportation of automobiles and the passengers carried therein by the Martinez-Benicia Ferry and Transportation Company, which, for convenience, will be designated herein sometimes as the Ferry Company.

Public hearings in this matter were held in San Francisco on November 17, 20 and 28, 1924.

The properties owned by the Ferry Company, and used in connection with its auto ferry operation, consist of a wharf, slip and building at Fifth street, Benicia; a slip at Martinez, and the auto ferry steamers, *City of Seattle*, having a carrying capacity of 17 automobiles, and the *City of Martinez*, with a carrying capacity of 35 automobiles.

On week days the first ferryboat leaves Martinez at 7 a.m., and service continues on a forty-minute headway until 10.20 a.m.; then on a twenty-minute headway until 6 p.m.; then on a forty-minute headway until 10.20 p.m. On Saturdays, Sundays and holidays an additional trip is made at 10 a.m., 6.40, 7.20 and 11 p.m.

The service rendered by the Ferry Company appears to be adequate for the volume of business now offered at this location. The Ferry Company is operating its boats and terminals with precaution and the service appears to be reasonably safe, considering the fact that the transportation of automobiles by boat is at all times a hazardous business, to some extent.

The remaining issue to be passed upon in this proceeding is the reasonableness of the rates charged by the Ferry Company for its services.

A valuation of the physical properties owned by the Ferry Company was introduced as evidence by the Commission's engineering department and is composed of an inventory and appraisal as of June 30, 1924, with four phases of value shown as follows:

	Operative property
1. Historical reproduction cost	\$163,670 00
2. Historical reproduction cost, less depreciation	113,250 00
3. Reproduction cost new	188,225 00
4. Reproduction cost new, less depreciation	123,361 00

Unit prices for the reproduction cost new basis were estimated to be the average market price for an estimated construction period of six months, terminating on the date of valuation.

The company did not seriously object to the values found. The life of piling in the Carquinez straits was discussed at some length but no evidence was produced to show that the average life of 15 years for creosoted piles which was used in the valuation and the average life of two years for green piling, which was used, were unreasonable, although it now appears that the use of green piles in this construction work in the future should be discontinued.

It is our conclusion, after careful consideration of the evidence, that the proper base rate to be used for the determination of a fair and equitable rate of return on the investment, for the purpose of this proceeding, is the sum of \$172,000, which sum includes an allowance of \$8,330 for working capital and material and supplies.

A forecast of the probable revenue to be received for the following year has been prepared (Commission's Exhibit No. 3, page 3) and on the basis of the present rate scale and present operating conditions, it is estimated that the revenues would increase approximately 5 per cent over the preceding year, providing that conditions of competition remain unchanged.

There was certain testimony presented by the company to show that the proposed highway known as the Sears Point cut-off would take some of the traffic away from its auto ferry and also that the proposed American Canyon highway between Cordelia and Vallejo, which would shorten the distance between those points approximately 5 miles, would divert some of the traffic now using its ferry to Vallejo, and that the Monticello Steamship Company would then become a direct competitor.

Most of the auto ferry companies in the vicinity of San Francisco Bay and the Carquinez straits may be considered to some extent to be competitors for the traffic now using the Martinez-Benicia ferry but the only direct competing ferry company at the present time is the Rodeo-Vallejo Ferry Company now operating between Shortway and Morrow Cove.

There is now under construction a toll bridge, known as the Antioch bridge and located approximately two miles east of the town of Antioch, which it is claimed may be completed in the latter part of 1925, and there is also a toll bridge under construction across the Carquinez straits near the town of Crockett, which, it is claimed, may be completed during the year 1926. When these bridges are completed, the Martinez-Benicia Ferry Company contends that it will lose practically all of its present traffic except the local traffic between the towns of Martinez and Benicia.

In our opinion, none of the proposed minor highway changes will greatly affect this Ferry Company's business and the traffic and revenues might reasonably be expected to increase at least 5 per cent with the present rates in effect up to the time when the Antioch toll bridge is opened for operation, provided that the rates of the Rodeo-Vallejo Ferry Company remain unchanged. After the opening of the Antioch toll bridge, this Ferry Company probably will lose some of its present traffic and its revenues may be reduced materially. No estimate of the probable loss of revenue from this loss of business has been presented.

Forecast of the operating expenses were prepared (Commission's Exhibit No. 3, Table No. 4) by the engineering department, and company's Exhibit No. 1 by the general manager for the company.

The company's estimate includes the wages for an additional crew and the cost of additional fuel oil in order to improve the service rendered. Any material increase in service at this time does not seem to

be warranted unless it will also increase the revenue. After careful consideration of the company's claims, it appears proper to revise the forecast of operating expenses as shown in Commission's Exhibit No. 3, as follows:

Commission's Exhibit No. 3, Table No. 4-----	\$107,228 00
Repairs to Martinez municipal wharf-----	5,000 00
Additional salary of ticket agents-----	780 00
Additional accounting -----	200 00
Public liability insurance-----	4,000 00

Total of one year's operating expense (including depreciation) -- \$117,208 00

The company's reserve for depreciation as of June 30, 1924, gives a total of \$93,868.55. At the present time there is no definite reason to further consider depreciation or amortization. If the company should lose traffic by competition to such an extent that it would be compelled to discontinue service, there would still be a net profit of approximately \$118.42, as follows:

Reserve for depreciation to June 30, 1924-----	\$93,868 55
Addition to reserve for depreciation, July 1, 1924, to June 30, 1925----	16,817 87
Salvage value of total property, June 30, 1925-----	53,102 00

Total net salvage-----	\$163,788 42
Historical reproduction cost, undepreciated-----	163,670 00

Net profit ----- \$118 42

Moreover, the evidence shows that the rates heretofore in effect enabled this company to purchase most of its present equipment out of past earnings.

If competitive conditions permitted the estimated normal increase of 5 per cent in revenue, the following forecast of the results for the ensuing year from operation would be obtained:

Total operating revenue-----	\$140,980 00
Operating expenses, excluding depreciation-----	\$109,940 00
Depreciation -----	7,268 00
	117,208 00

Operating income -----	\$23,772 00
Taxes, property and corporation-----	\$450 00
Income tax -----	2,915 00
	3,365 00

Net income ----- \$20,407 00

Based on these estimated results from operation, the rate of return would be 11.8 per cent of a rate base of \$172,000.

No attempt has been made to estimate the amount of traffic that will be diverted to the toll bridges and no consideration has been given in computing this rate of return, to the effect of possible changes in the extent of competition from other ferry companies.

As mentioned above, this Ferry Company has a direct competitor in the Rodeo-Vallejo Ferry Company. There is now pending before this Commission a proceeding similar to this, in which the service and rates of that carrier are being investigated.

If any reduction is made in the rates charged by the Rodeo-Vallejo Ferry Company, it is probable that the Martinez-Benicia Ferry and Transportation Company will desire voluntarily to reduce its rates to the same general level in order to retain its present traffic, and even then, when the Antioch toll bridge is completed, it is probable that the Martinez-Benicia Ferry and Transportation Company will not be able to retain all of its present traffic.

Whether the service rendered by this company, under the competitive conditions that will probably develop, will continue to be a public convenience and necessity to the general traveling public, or whether it will find it profitable to operate under these future conditions to meet only the purely local convenience and necessity of the two communities immediately served, will be determined by the events themselves. It is not the duty of this Commission to refrain from adjusting the rates of other competitive auto ferry companies to a basis allowing a reasonable and adequate return, and giving the general public the benefit of such adjusted rates as applied to such competitive companies, even though its effect may be to prove such a limited public need for the services of this Ferry Company as to render its operations unprofitable.

No benefit can come to this Ferry Company by increasing its rates in the face of existing competition; and after consideration of all the evidence, it is our conclusion that no reduction of rates should be ordered by this Commission at this time, and that the proceeding should be dismissed.

The following form of order is recommended :

ORDER.

Public hearings having been held in the above entitled proceeding, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that the above entitled proceeding be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of April, 1925.

DECISION No. 14730.

IN THE MATTER OF AN INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES, SERVICE, RULES, REGULATIONS AND PRACTICES OF THE MONTICELLO STEAMSHIP COMPANY.

Case No. 2051.

Decided April 1, 1925.

RATES—AUTO FERRY—SAN FRANCISCO BAY.—Having ordered reduced the rates of competing ferry companies, the Commission finds that while no reduction in the rates of this utility should be ordered, it is probable that the Monticello Steamship Company will desire to reduce its rates voluntarily to the same general level in order to retain its present vehicular business.

Raymond Benjamin and Harry A. Encell, for the Monticello Steamship Company.

SHORE AND SEAVEY, *Commissioners.*

OPINION.

This is primarily an investigation into the service rendered and the reasonableness of the rates charged for the transportation of automobiles, trucks and other vehicles.

A public hearing was held in San Francisco on December 8, 1924.

The Monticello Steamship Company was organized July 26, 1904, and very soon thereafter commenced the operation of a steamship line between San Francisco and Vallejo. The company carries passengers, vehicles and freight. Three large boats are now operated, having an average auto capacity of approximately 60 automobiles each. Seven trips are made daily from both San Francisco and Vallejo, two boats being run under a headway of about two and a quarter hours. The actual running time is approximately one hour and forty-five minutes between terminals.

The service rendered by the company is reasonably adequate and the size of the equipment offers considerable room for any increase in traffic that normally may be anticipated. The company is now operating with precaution and the service appears to be reasonably safe.

The remaining issue to be passed upon in this proceeding is the reasonableness of the vehicular rates charged by the Monticello Steamship Company.

A valuation of the physical property owned by the company was introduced in evidence by the Commission's engineering department and is composed of an inventory and appraisal as of September 30, 1924, with four phases of value being shown, as follows:

Historical reproduction cost	\$2,066,847 00
Historical reproduction cost, less depreciation.....	1,528,155 00
Reproduction cost, new	2,071,205 00
Reproduction cost, new, less depreciation.....	1,501,503 00

Certain additions and betterments have been added to the property since the date of valuation. No objection was made by the company to any of the values found. The department of finance and accounts of the Commission presented a report showing the total investment of the company as amounting to \$1,573,790 as of December 31, 1923. This figure is not inconsistent with the company's statement for investment to the amount of \$1,701,945.08 as of June 30, 1924. Both of these figures were obtained from the company's books, but the records as to actual investment are not available. It appears from the evidence presented that the fair amount to be used as a rate base as of December 31, 1924, is the sum of \$2,073,162.

The company's records show an increase in vehicular traffic of approximately 15 per cent during 1924. A considerable portion of this increase was undoubtedly due to the increased capacity of the boats effected in the latter part of 1924, and it appears reasonable to assume that this rate of increase will continue during 1925.

The company competes for a considerable portion of its traffic in the transportation of vehicles, with the Golden Gate Ferry Company, the Southern Pacific Company and the Rodeo-Vallejo Ferry Company.

The Commission's engineering department made a report (Commission's Exhibit No. 3) of the financial results of operation, in which estimates were given of revenues and expenses for the year 1925. It appears from this report that the entire operations of the company may be expected to earn a net return of 5.7 per cent on the above rate base for the year 1925. The total earnings from vehicular transportation, exclusive of passengers carried therein, amounted to \$75,842 for the year 1923, and \$86,091 for the year 1924. It further appears from this report that, upon any reasonable basis of apportionment of the company's operations as between its vehicular traffic and its other business, the earnings from its vehicular traffic will not give an excessive return upon that proportion of the property which is devoted to the transportation of vehicles.

There is now pending before this Commission a proceeding similar to this, in which the services and rates of the companies competing with the Monticello Steamship Company are being investigated.

If any reductions are made in the rates charged by these competing companies, it is probable that the Monticello Steamship Company will desire to reduce its rates voluntarily to the same general level in order to retain its present vehicular business.

After a careful consideration of all the evidence in this case, it is our conclusion that no reduction in rates should be ordered by the Commission at the present time, and that this proceeding should be dismissed.

The following form of order is recommended:

ORDER.

Public hearing having been held in the above entitled proceeding, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that the above entitled proceeding be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of April, 1925.

DECISION No. 14731.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF LOS ANGELES, THE CITY OF LOS ANGELES, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE LOS ANGELES AND SALT LAKE RAILROAD COMPANY, THE PACIFIC ELECTRIC RAILWAY COMPANY, AND THE LOS ANGELES RAILWAY CORPORATION, FOR A JUST AND EQUITABLE APPORTIONMENT OF THE COST OF THE CONSTRUCTION OF SIX CERTAIN VIADUCTS ACROSS THE LOS ANGELES RIVER, IN THE SAID CITY OF LOS ANGELES AT MACY, ALISO, FIRST, FOURTH, SEVENTH AND NINTH STREETS.

Application No. 9671.

Decided April 1, 1925.

GRADE CROSSING—SEPARATION OF GRADES—VIADUCT—COST APPORTIONED.—Public convenience and necessity require the construction of a viaduct to carry Macy street above and across the tracks of The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company. It is ordered that the cost of said viaduct be apportioned as follows: The city of Los Angeles, the county of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company each to pay 21 per cent of the cost, and the Los Angeles Railway Corporation to pay 16 per cent.

Eduard T. Bishop, County Counsel, by *Roy Douds*, Deputy County Counsel, for the County of Los Angeles.

Jess E. Stephens, City Attorney, and *Milton Bryan*, Deputy City Attorney, for the City of Los Angeles.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

A. S. Halsted, for Los Angeles and Salt Lake Railroad Company.

Frank Karr, for the Pacific Electric Railway Company.

S. M. Haskins, for the Los Angeles Railway Corporation.

C. I. Wheat, Attorney, for the Railroad Commission of California.

SHORE AND SEAVEY, *Commissioners*.

OPINION.

This opinion and order deals with that portion of the joint application of the county of Los Angeles, the city of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company, the Pacific Electric Railway Company and the Los

Angeles Railway Company for an order apportioning the cost of six viaducts proposed to be built over the tracks of the Santa Fe and Salt Lake tracks and over the Los Angeles River in the city of Los Angeles, which covers the viaduct at Macy street. Authorization for the construction of the Ninth street viaduct and the apportionment of the cost thereof has already been covered in this Commission's Decision No. 13443.

Plans for the Macy street viaduct, in so far as they pertain to that portion of the viaduct extending from the westerly bank of the river easterly to the west line of Mission road, have been approved by the Commission in Decision No. 13856, and applicants have been authorized in that decision to proceed with the construction of that portion of the viaduct.

Two principal issues remain to be decided in relation to the Macy street viaduct; first, the length of viaduct on the west side of the river, *i. e.*, whether the present main passenger line of the Santa Fe is to be crossed overhead by the viaduct or whether that track is to be relocated to a position approximately 550 feet easterly adjacent to the bank of the river and a viaduct with shorter approach constructed; second, the apportionment of the cost of the Macy street grade separation project between the interested parties.

In addition to the hearings held at Los Angeles on February 6 and March 10, 1924, in which testimony was presented dealing with general considerations applicable to all the viaducts proposed in this proceeding, and with particular consideration applicable to the Ninth street viaduct, two further hearings were held on July 15, 1924, and July 28, 1924, at which testimony in regard to the Macy street viaduct was adduced.

The original application contemplated the construction of a short viaduct at Macy street, and the detail plans and specifications (City's Exhibit No. 12-A to 12-I inclusive) submitted are for such a structure. A map showing a general lay-out for a viaduct having a westerly approach approximately 550 feet longer than the approach proposed in the application was also prepared at the request of the Santa Fe by the city of Los Angeles and introduced as city's Exhibit No. 15. The Santa Fe requested the city of Los Angeles to prepare the latter plan because that railroad company objects to the relocation of its main line passenger track to a position adjacent to the river bank, on the ground that it constructed this track at considerable expense many years ago in order to get away from the river bank with its attendant curvature. None of the other railroad applicants opposed the longer viaduct, if such were found in the public interest to be desirable. The Santa Fe contends that the cost of moving their main line back to the river and installing satisfactory facilities in connection therewith would more

than offset the cost of the increased length of the long viaduct with its increased property damages over the cost of the short viaduct.

The city of Los Angeles and the county of Los Angeles are opposed to the construction of the long viaduct and claim that the short viaduct is the cheaper both as to construction costs and as to property damages involved. The Los Angeles Gas and Electric Corporation is willing to give a twenty-foot strip of land along Macy street if the short viaduct is built, but claims that it would suffer very large property damage if the long viaduct should be erected. Estimates presented at the hearings show the comparative costs of the long and short viaducts as follows:

Item	Source of estimate	Long viaduct	Short viaduct	Excess cost of long viaduct over short viaduct
East approach-----	C. R. C. Eng. Dept.	\$49,433	\$49,433	-----
River Span-----	C. R. C. Eng. Dept.	244,555	244,555	-----
West approach-----	C. R. C. Eng. Dept.			
	and City Eng. Dept.	288,263	179,308	\$108,955
Salt Lake Track Work	C. R. C. Eng. Dept.	85,965	85,965	-----
Salt Lake Track Work	L. A. and S. L. R. R.	158,220	158,220	-----
Santa Fe Track Work	C. R. C. Eng. Dept.	123,264†	114,121	\$9,143
Santa Fe Track Work	A. T. and S. F. Ry.	123,264	220,350	—97,095
L. A. Railway Work	C. R. C. Eng. Dept.	73,527*	63,187	10,340
L. A. Railway Work	L. A. Railway	168,130*	152,058	16,072
Property damage East of river-----	City	56,910	56,910	-----
Property damage West of river-----	City	{ 60,000	-----	-----
		{ 37,950	-----	-----
	L. A. G. and E. Corpn.	163,950	37,950	223,950
Damage to A. T. and S. F. operations-----	C. R. C. Eng. Dept.	-----	41,322	—41,322
Damage to A. T. and S. F. operations-----	A. T. and S. F.	-----	182,710	—182,710
Total maximum estimate-----		\$1,350,675	\$1,281,503	\$69,172
Total minimum estimate-----		1,183,817	872,751	311,066

If the maximum claims of interested parties are used, the excess cost of the long viaduct would amount to \$69,172, but if the more conservative estimates of damages and costs are used, the excess cost of the long viaduct would be \$311,066. The actual difference in total cost between the two lengths will probably lie somewhere between these two estimates.

The application states that "the locations, plans and specifications and general character of said viaducts as proposed and planned are in nowise repugnant to, or in conflict with, the plans contemplated by the Commission in the Order No. 9398," the Union terminal matter. Although the long viaduct will not interfere with the plans contemplated for a Union terminal by this Commission, the money spent on

*Additional work L. A. Ry. track for long viaduct estimated at same unit prices as used for short viaduct.

†In the absence of estimate by the Commission's Engineering Department of Santa Fe track work for long viaduct, the estimate prepared by A. T. and S. F. Ry. has been adopted for this comparison.

the additional length would be entirely wasted if the Plaza Union terminal plans proposed by this Commission in the proceeding now pending before the Interstate Commerce Commission were carried out, as all of the Santa Fe tracks would, under that plan, necessarily be located adjacent to the river.

The long viaduct will not be of advantage to any of the applicants except the Santa Fe; it will be a detriment to the Los Angeles Gas and Electric Corporation; it will be of benefit to the public at large only in so far as that public is benefited through the slightly better service that might be rendered by the Santa Fe over its present tangent main line as compared to the service along the river tracks. This difference is so slight as to be negligible. The benefits of the long viaduct to the Santa Fe appear to be substantially outweighed on the whole by advantages including the difference in cost of the short viaduct to all interests. It would therefore appear that the shorter viaduct should be constructed in accordance with the plans submitted by the city in detail in Exhibits 12 A to I inclusive and the applicants will be so authorized.

The apportionment of the cost of the Macy street viaduct remains to be determined by the Commission, and that issue will now be discussed.

Applicants, with the exception of the Los Angeles Railway Corporation, propose that the cost be divided equally between the five applicants, but in the absence of complete agreement among the interested parties, it is the duty of the Commission to rely upon its own judgment, based upon all the considerations presented in evidence, as to a determination of this issue.

Elaborate studies were made and presented, bearing upon this subject; the most comprehensive of which was presented by the Commission's transportation engineer, who made an analysis of three suggested bases of apportioning the cost, as follows:

Basis 1—An equal division of cost between the five applicants primarily interested, similar to the apportionment agreed upon by four of these five applicants.

Basis 2—A division of cost based upon considerations related to the purpose for which the structure is to be constructed. The component parts of the reasoning under this basis might be summarized as follows:

(a) The cost of spanning the river (assuming no railroads involved) assessed to the political subdivisions.

(b) The cost of separating the grades of the street with each steam railroad, equally divided between the political subdivisions and the respective railroads. This includes the cost of raising the bridge spanning the river to the required elevation.

(c) The excess cost of the work due to occupancy of the street by the street railway, assessed to the street railway company.

Basis 3—A division of cost based upon the same consideration as Basis 2, except that the 20-foot strip along the viaduct which would be available for use of either street cars or other vehicles, is considered under joint use by the street railway and the general public, and that therefore the street railway be assessed with not only the excess cost due to its occupancy, but in addition, one-half of the cost otherwise assessable to the political subdivisions for the construction of that 20-foot portion of such design and strength as required for general street purposes.

The estimated effect of each of these three bases is shown in summary form by the following tabulation, all the figures being estimates for the short viaduct:

Name of Party	Basis 1		Basis 2		Basis 3	
	Amount	Per cent	Amount	Per cent	Amount	Per cent
City of Los Angeles----	\$171,091	20	\$238,028	27.825	\$204,502	23.905
County of Los Angeles---	171,090	20	238,028	27.825	204,502	23.905
Atchison, Topeka and Santa Fe Railway---	171,090	20	179,734	21.01	179,736	21.01
Los Angeles and Salt Lake Railroad-----	171,090	20	106,055	12.40	106,056	12.40
Los Angeles Railway Corporation -----	171,090	20	93,606	10.94	160,655	18.78
Totals -----	\$855,451	100	\$855,451	100	\$855,451	100

As might be expected, the contentions of the city of Los Angeles, the county of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, and the Los Angeles and Salt Lake Railroad Company, regarding the apportionment of cost, are similar. The first three above named parties, although they believe the Los Angeles Railway Corporation should be assessed with 20 per cent of the cost, have indicated that if the Commission should assess some other proportion to the street railway, the remainder of the cost should be divided equally between the four parties who have each agreed to bear 20 per cent of the cost.

The city presented evidence to the effect that approximately one-third of the number of persons now using Macy street at the location of the proposed viaduct, are carried by the street railway; that approximately one-third of the tonnage on the street is tonnage of the street railway; and that approximately one-third of the area of the viaduct surface will be available to the uses of the street railway. It was also shown that the Los Angeles Railway Corporation, or its predecessor in interest, had contributed amounts varying from 23 per cent to 55 per cent of certain bridges and viaducts constructed in the past.

The Los Angeles Railway Corporation contends that it should not be required to bear any portion of costs of the new viaduct other

than those incurred expressly for the purpose of making the structure adaptable for street railway service. It claims that it is the other street traffic rather than the street car traffic that is responsible for the condition making grade separation necessary; that it could continue to operate safely and without undue delay with its existing facilities, including its single track bridge across the river, and that the benefits which would accrue to the street railway by the construction of the viaduct are small. The street railway company represents it is simply an agent of that part of the taxpaying public that rides over the surface of the public streets in street cars, and in so far as the cost of the viaduct charged to the street railway might be reflected in the fare charged its patrons, the street car rider would be required to pay a larger ratio than the automobile rider, because a part of the cost will be paid out of general taxes.

The Los Angeles Railway Corporation also introduced evidence to show that special circumstances, not comparable with the present case, sometimes attended the instances cited where the street railway paid relatively large proportions of the cost of certain bridges and viaducts.

That the problem of apportioning the cost in this case is unusually complicated, is apparent from a consideration of the factors that have been mentioned. We are convinced that each of the parties will receive a considerable and substantial benefit from the proposed viaduct, but there appears to have been found no common denominator or unit of measure by which the interest, activities and benefits of the several parties concerned in the use of this viaduct can be precisely expressed. We are further convinced that no mathematical analysis or formula has been presented which takes into consideration all the factors involved. The problem appears, therefore, rather to be a matter to be determined by judgment; a judgment based upon the evidence, and assisted by the analyses of data presented.

The fact that four parties having different interests and different points of view in the matter have, in effect, agreed to divide equally whatever cost is assessed to them collectively, is excellent evidence of the equity of such a division. Nor does it appear that this division as between these four parties is inconsistent, on the whole, with the other evidence presented in this proceeding. It remains then to determine the equitable portion of the cost to assess to the Los Angeles Railway Corporation.

The street railway now crosses the river at Macy street on a privately owned single track bridge approximately 300 feet in length. This is the only section of single track on the entire Macy street-Brooklyn avenue line, a line subject to relatively heavy street car travel. It does not appear that the city is under any franchise or other obliga-

tion to furnish the street railway with a bridge over the Los Angeles river at this point. The street railway contends that its existing single track bridge is now, and probably will be adequate for the remaining life of its Macy street franchise. The judgment of the company as to this point is open to question. The Los Angeles Railway Corporation has undertaken to serve the Macy street and Brooklyn avenue territory, and it has an obligation to render reasonably safe and expeditious service on the line in question. The evidence clearly shows that a section of single track in a heavy traffic double track street car line results, in the aggregate, in a considerable delay and some hazard. It is the company's duty to improve this condition, when it can be done at a reasonable cost.

Although it must be admitted that the urgency for eliminating the grade crossing is far greater because of automobile traffic than because of street car traffic, we are convinced that the street railway traffic in this instance is an important contributing factor in the necessity of effecting grade separation. Street cars may be able to cross railroads with somewhat greater degree of safety than automobiles, but this additional safety is purchased by delay, and even with the precaution of stopping cars at grade crossings, a serious hazard still exists. Certainly the street railway has an obligation to eliminate both the delay and the hazard.

The primary cause, however, forcing the viaduct construction at this time is due to the rapid increase of automobile traffic and the attendant congestion and delay at the steam railroad crossings. We are of the opinion, therefore, that the street railway should not bear as large a portion of the cost of this viaduct as each of the other parties. It is our judgment, based upon a careful consideration of all the evidence, that the Los Angeles Railway Corporation should bear 16 per cent of the cost of the Macy street viaduct, and that the remaining 84 per cent should be equally divided between the city of Los Angeles, the county of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, and the Los Angeles and Salt Lake Railroad Company respectively. The costs to be so divided should include those incurred by all necessary construction work, such as viaduct structural work, track depression and track rearrangement, and also costs incurred on account of damage to property. Any cost incurred due to temporary inconvenience of operation during construction, or any values due to remaining normal life of facilities retired, that may be lost to any of the interested parties, should be borne by the party incurring them, and not included in the cost of the work to be divided as above indicated.

The following form of order is recommended:

THIRD PRELIMINARY ORDER.

The above entitled application has been submitted in so far as the Macy street viaduct is concerned, and in regard to that particular viaduct the Commission has already made its preliminary order approving the detailed plans of that portion of the viaduct spanning the river and the easterly approach thereto and directing the applicants to proceed with the construction. The length of the westerly approach and the apportionment of the costs among the several interested parties is now ready for decision:

It is hereby found as a fact that public convenience and necessity require the construction of a viaduct to carry Macy street above and across the tracks of The Atchison, Topeka and Santa Fe Railway Company and the tracks of the Los Angeles and Salt Lake Railroad Company in the city of Los Angeles, county of Los Angeles, State of California; therefore

It is hereby ordered, that the city of Los Angeles, county of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company and the Los Angeles Railway Corporation, joint applicants herein, be and they are hereby authorized to construct Macy street above and across the tracks of The Atchison, Topeka and Santa Fe Railway Company and tracks of the Los Angeles and Salt Lake Railroad Company in accordance with specifications and plans shown in city of Los Angeles' Exhibits 12 A to 12 I inclusive, filed on July 15, 1924, and that said plans and specifications for the entire viaduct, including the westerly approach, are hereby approved; and

It is hereby further ordered, that the costs of said separation of grades and of the construction of said viaduct at Macy street, including such installation expenses and the cost of changes in tracks and yards of the railroads upon the east and west banks of the Los Angeles river as may, by further order or orders herein, be allocated to this particular viaduct, be and the same shall be paid as follows:

Twenty-one per cent (21%) by city of Los Angeles.

Twenty-one per cent (21%) by county of Los Angeles.

Twenty-one per cent (21%) by The Atchison, Topeka and Santa Fe Railway Company.

Twenty-one per cent (21%) by Los Angeles and Salt Lake Railroad Company.

Sixteen per cent (16%) by Los Angeles Railway Corporation.

It is hereby further ordered, that this order be and it is subject to the following conditions:

(1) Clearances in this grade separation shall conform to this Commission's General Order No. 26.

(2) Applicants shall cause to be filed with the Commission monthly reports of progress, with costs, during the period of construction, such reports to contain such information and data as may be required by the Commission.

(3) The Commission reserves the right to make such further orders as to it may seem right and proper, and to revoke its permission if, in its judgment, public convenience and necessity demand such action.

The effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of April, 1925.

DECISION No. 14732.

THE LOS ANGELES LUMBER PRODUCTS COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1951.

MADERA SUGAR PINE COMPANY, SUGAR PINE LUMBER COMPANY,
AND YOSEMITE LUMBER COMPANY

vs.

MINARETS AND WESTERN RAILWAY COMPANY, SOUTHERN PACIFIC
COMPANY, AND YOSEMITE VALLEY RAILROAD COMPANY.

Case No. 1973.

Decided April 1, 1925.

RATES—STEAM RAILROAD—LUMBER—DISCRIMINATION.—Rates on lumber and box shooks, in carloads, from San Pedro, Pinedale, Madera and Merced Falls, found to be excessive, unreasonable, unjust, discriminatory and prejudicial. Reasonable rates prescribed. Reparation denied.

H. M. Wade, for Los Angeles Lumber Products Company, Complainant.
Gwyn H. Baker, for Madera Sugar Pine Company and Sugar Pine Lumber Company, Complainants.

Max Thelen, for Yosemite Lumber Company, Complainant.
McCutchen, Olney, Mannon and Greenc, by *Allan P. Matthew* and *John O. Moran*, for Hobart Estate Company, Intervener.

Sanborn, Roehl and Smith, for Big Lakes Box Company; Castle Crag Lumber Company; Ewauna Box Company; Hutchinson Lumber Company; Klamath Lumber and Box Company; Lamm Lumber Company; Lassen Lumber and Box Company; Likely Lumber Company; McCloud River Lumber Company; Michigan-California Lumber Company; Modoc Lumber Company; Pelican Bay Lumber Company; M. J. Scanlon Lumber Company; Standard Lumber Company; Swayne Lumber Company; Weed Lumber Company; Clover Valley Lumber Company and Spanish Peak Lumber Company, Interveners.

F. A. Jones, Lloyd F. Jones and Charles E. Blaine, for Saginaw and Manistee Lumber Company; Flagstaff Lumber Company, and Arizona Lumber and Timber Company, Interveners.

H. M. Remington, for California Growers and Shippers Protective League, Intervener.

F. P. Gregson and R. S. Sawyer, for Los Angeles Chamber of Commerce, Intervener.

Seth Mann, for San Francisco Chamber of Commerce, Intervener.

A. Larsson, for the Red River Lumber Company; Algoma Lumber Company; Pacific Lumber Company; Tartar, Webster and Johnson, Incorporated; F. P. Doe Lumber Company; Stockton Box Company; E. W. Wheelock, Incorporated, and Larsson Traffic Service, Interveners.

A. C. Lowell, for Redwood Manufacturers Company, Intervener.

Elmer Westlake, A. A. Johnson, V. S. Andrus, for Southern Pacific Company, Defendant.

E. W. Camp, for Atchison, Topeka and Santa Fe Railway Company, Defendant.

Joseph N. Teal and William C. McCulloch, for Anderson and Middleton Lumber Company; Willamette Lumbermen's Association and others, Interveners.

E. W. Hollingsworth and Bishop and Bahler, for Pacific Box Factory; Coos Bay Lumber Company; Mercantile Box Company; Pacific Tank and Pipe Company and National Mill and Lumber Company, Interveners.

BY THE COMMISSION.

OPINION.

The hearings in these two proceedings were conducted in Los Angeles and San Francisco jointly with the Interstate Commerce Commission in connection with I. C. C. Docket No. 15303. Commissioner B. H. Meyer and Examiner J. F. Eshelman, representing the Interstate Commission, and Commissioner Clyde L. Seavey and Examiner W. P. Geary the California Commission.

I. C. C. Docket No. 15303 was filed with the Interstate Commerce Commission October 8, 1923, by the Los Angeles Lumber Products Company and alleges that the carload rates applying to lumber and lumber products, of the Southern Pacific Company, from Westwood, California, Portland, Grants Pass, Medford and Klamath Falls, Oregon, and other named points to Sacramento and other points in California, are unjustly and unreasonably low as compared with the rates published from San Pedro to the same destinations; that they are discriminatory against San Pedro and preferential to Westwood, California, Portland, Grants Pass, Medford and Klamath Falls, Oregon, and other points taking the same rates, therefore in violation of sections 2 and 3 of the Interstate Commerce Act. Complainants ask the Commission to establish rates between all of the points involved which will be nondiscriminatory, nonpreferential, just and reasonable.

The complaint in Case No. 1951 was filed with the California Commission October 4, 1923, by the *Los Angeles Lumber Products Company vs. Southern Pacific Company*. The allegations are to the effect that the intrastate rates now published and applying on carload shipments of lumber, lumber products and box and crate material (shook) are unjust and unreasonable per se, and discriminatory and unduly prejudicial to San Pedro when compared with the rates from other lumber shipping stations within California serving the same consuming points; also that the interstate rates now in effect give undue

preference to interstate shipping points, such as Westwood, California (movement being, in part, through Nevada), Portland, Grants Pass, Medford, Klamath Falls, Oregon, and other points taking the same rates. The intrastate rates are alleged to be in violation of the provisions of the Public Utilities Act and the constitution of the State of California. Reparation is demanded in connection with all carload shipments forwarded by complainants from San Pedro to destinations in California from May 1, 1923, to the date upon which the just and reasonable rates are put in force.

Case No. 1973 was filed with the California Commission January 11, 1924, by the *Madera Sugar Pine Company, Sugar Pine Lumber Company and Yosemite Lumber Company*, as complainants, vs. *Minarets and Western Railway Company, Southern Pacific Company and Yosemite Valley Railroad Company*, as defendants. The allegations of these complainants are that all the intrastate rates in the tariffs of the defendants, for the transportation of carloads of lumber and lumber products from complainants' plants to destinations on or reached via the lines of the Southern Pacific Company in the State of California, are unreasonable and excessive in violation of section 13 of the Public Utilities Act of the State of California. It is further alleged that the rates assessed and collected for the transportation of lumber and lumber products from Madera, Pinedale and Merced Falls to the destinations of consumption within California are excessive, unreasonable, unjust and discriminatory and are preferential to complainant's competitors having mills at points in Oregon and California.

The following interested parties intervened in Case No. 1951:

Atchison, Topeka and Santa Fe Railway Company; San Francisco Chamber of Commerce; The Lumbermen's Exchange; Weed Lumber Company; McCloud River Lumber Company; Lassen Lumber and Box Company; Swayne Lumber Company; Spanish Peak Lumber Company; Big Lakes Box Company; Michigan-California Lumber Company; Castle Crag Lumber Company; Ewauna Box Company; Lamm Lumber Company; Modoc Lumber Company; Likely Lumber Company; Hutchinson Lumber Company; M. J. Scanlon Lumber Company; Standard Lumber Company; Klamath Lumber and Box Company; Pelican Bay Lumber Company; Clover Valley Lumber Company; Madera Sugar Pine Company; Sugar Pine Lumber Company; Yosemite Lumber Company; The Pacific Lumber Company; The Red River Lumber Company; Tarter, Webster and Johnson, Inc.; Wendling, Nathan Company; E. U. Wheelock, Incorporated; Sacramento Box Company; Stockton Box Company; Algoma Lumber Company; Frank P. Doe Lumber Company; Larsson Traffic Service.

The Anderson and Middleton Lumber Company of Oregon; Booth-Kelly Lumber Company; Brighton Mills Company; Brownlee-Olds

Lumber Company; Clark and Wilson Lumber Company; Coast Range Lumber Company; Dollar Portland Lumber Company; Duluth-Oregon Lumber Company; Eastern and Western Lumber Company; East Side Mill and Lumber Company; Fischer Lumber Company; G. H. P. Lumber Company; Inman-Poulsen Lumber Company; L. B. Menefee Lumber Company; Peninsula Lumber Company; Silverton Lumber Company; Silver Falls Timber Company; Standard Box and Lumber Company; Tomlin Box Company; West Oregon Lumber Company; Wheeler Lumber Company; Winchester Bay Lumber Company; Willamette Valley Lumbermen's Association.

The interveners in Case No. 1973 are: Atchison, Topeka and Santa Fe Railway Company; San Francisco Chamber of Commerce; Los Angeles Lumber Products Company; Big Lakes Lumber Company; Michigan-California Lumber Company; Swayne Lumber Company; Weed Lumber Company; McCloud River Lumber Company; Spanish Peak Lumber Company; Lassen Lumber and Box Company; Castle Crag Lumber Company; Ewauna Box Company; Lamm Lumber Company; Modoc Lumber Company; Likely Lumber Company; Hutchinson Lumber Company; M. J. Scanlon Lumber Company; Standard Lumber Company; Klamath Lumber and Box Company; Pelican Bay Lumber Company; Clover Valley Lumber Company.

Jurisdiction.

At the outset of the hearings attorneys representing eighteen interveners raised the question of the right and jurisdiction of the Interstate Commerce Commission and the Railroad Commission of the State of California conducting joint hearings in these proceedings. In the opening brief for these interveners, filed by Sanborn and Roehl and DeLancey C. Smith, the question of the jurisdiction of each commission was argued. We have given careful consideration to the citations and the arguments presented, but fail to see the necessity of entering into any extensive discussion of this jurisdictional question. We find nothing in the statutes, either federal or state, prohibiting commissions cooperating in conducting joint hearings whenever in their judgment it appears profitable to do so. Neither commission is bound by the action of the other one, and it would not be at all strange if different conclusions were reached upon the same record; in fact, different results obtain in many rate proceedings involving closely interwoven state and interstate rates where there are independent hearings, but where practically the same exhibits and testimony are offered.

We conclude the right and authority exists for conducting these joint hearings and that same are necessary, practicable and of value to all interested parties.

Location of Mills; Amount of Timber and Output.

The Los Angeles Lumber Products Company (Case No. 1951) controls some 89,000 acres of timber lands on the Queen Charlotte Islands, 1400 miles north of San Pedro, in British Columbia, located west of Prince Rupert, with an estimated timber stand of 3,500,000,000 feet, consisting of hemlock, spruce, white cedar and red cedar. The trees are cut in the forest, the logs brought to the mills on the island and there squared into cants; these cants of an average size, approximately 18' x 24" x 24", are transported to San Pedro on vessels owned by the complainants, where they are sawed into lumber and other products. The manufacturing plant at San Pedro consists of a saw mill, planing mill, box factory, dry kilns and other improvements necessary for fabrication of the timber. The saw mill has an average output of 250,000 feet for each shift of eight hours, employs at San Pedro between 500 and 600 men, with an annual pay roll of approximately \$750,000, but it has never been operated to capacity.

The Madera Sugar Pine Company (Case No. 1973) has a saw mill located at Sugar Pine, 65 miles from the main line of the Southern Pacific. Lumber manufactured at Sugar Pine is moved to Madera by flume, where it is remanufactured for distribution. This company is engaged in cutting about one-half billion feet of timber, of which approximately 20 per cent is privately owned and 80 per cent government timber, consisting of sugar pine, California white pine, white fir and California cedar. The operations are in rough mountainous country during a period of about seven months in the year. This complainant employs about five hundred men.

The Sugar Pine Lumber Company (Case No. 1973) is operating in about 5,000,000,000 feet of timber similar to that being cut by the Madera Sugar Pine Company, and it is estimated that at the present rate of cutting the mills will continue operation for fifty years. This timber is taken from the forests 45 miles from Pinedale, and is moved to Pinedale over the Minarets and Western Railway. The plant at Pinedale employs about 1500 men.

The Yosemite Lumber Company (Case No. 1973) has approximately 1,600,000,000 feet of timber located in Mariposa, Tuolumne and Merced counties and expects to operate, at the present rate of cutting, for about thirty years. The timber consists of sugar pine, white pine, fir and cedar, running approximately from 60,000 to 65,000 feet per acre, the logs being transported via a lumber railroad and an incline to El Portal station on the Yosemite Valley Railroad, and from that point to Merced Falls for manufacture. The total number of employees is about 1200 and the plant operates for approximately nine months of the year.

The California interveners have lumber mills in northern California at Standard, Camino, Oroville, Grays Flat, Loyalton, Likely, Susanville, Westwood, Castella, Sisson, McCloud, Weed and other points; also at Klamath Falls, Oregon.

The Oregon interveners have mills in the extreme southern part of Oregon operating in very extensive timber regions, owned privately and by the government, producing principally white pine, sugar pine, cedar and redwood. They also operate in the Willamette Valley and in northern Oregon, with mills producing Douglas fir, hemlock and spruce. These mills are all in competition with each other in supplying the California consumers.

The lumber consumed in California is obtained in two ways, all rail from the mills in California and from the mills located outside the state, principally in Oregon and Washington, and that moved by carriers by water from the mills having access to the Pacific Ocean.

From the testimony it appears that a great number of the Pacific coast mills are so located that they can conveniently ship by either rail or water, and exhibits filed by the Oregon interveners show that the water-borne lumber is steadily on the increase. The shipments by rail to California, Arizona and New Mexico from mills located west of the Cascade Mountains in Oregon and Washington were, in 1916, by rail 221,367,000 feet; by water 1,001,098,725 feet; in 1923 the total by rail was 656,853,000 feet; by water 1,812,234,973 feet, an increase over this period of 435,486,000 feet by rail, and 811,196,248 feet by water; in other words, the increased water-borne lumber was almost 100 per cent greater than the increased rail tonnage. The movement by water in 1923, of 1,812,234,973 feet, is equivalent to 72,489 carloads of 25,000 feet each.

An exhibit filed by defendant Southern Pacific Company gives the totals of water-borne lumber received at San Francisco bay points and at Los Angeles harbor during the year 1923 as 2,624,546,944 feet, equal to 4,323,807 tons.

Another exhibit gives the total lumber production of the California mills in the year 1923 as 2,475,867,000 feet, showing that the water-borne lumber passing through these two important ports was greater by 148,679,944 feet than the total amount of lumber produced by all of the California mills during the year 1923.

Evidence was very strongly to the point that there is heavy movement of lumber into California, not only from the California ports, but from Oregon and Washington, by vessels not under the jurisdiction of this or the Interstate Commerce Commission and, to a very large extent, on vessels owned by the lumber producers. The record clearly discloses that carriers by water are transporting practically all the lumber consumed at or near the ports and this is particularly empha-

sized in connection with the consumption at San Francisco and Los Angeles, Los Angeles being one of the largest lumber consuming districts in the United States.

The Los Angeles Lumber Products Company produces spruce, hemlock, white and red cedar, approximating 40 per cent hemlock, 30 per cent spruce and 30 per cent cedar. Of this output about 60 per cent is low grade and 40 per cent uppers. The upper grades of spruce can be used for practically the same purposes as fir, with the exception of heavy building construction; it is also suitable for interior finishing and for manufacturing purposes, and hemlock may be used in the same manner. When building conditions are active much low grade lumber is used for that purpose, but under ordinary circumstances a large part of the 60 per cent of lowers goes into box shook.

The Madera Sugar Pine Company, the Sugar Pine Lumber Company and the Yosemite Lumber Company operate in the same general territory and produce sugar pine, white pine, white fir and cedar, divided approximately 40 per cent sugar pine, 30 per cent white pine, 20 per cent white fir and 10 per cent cedar.

Of the lumber produced by the Madera Sugar Pine Company and the Sugar Pine Lumber Company about 40 per cent is high grade and is shipped to markets outside the State of California, while the balance is used to a large extent locally in close proximity to the mills or, in other words, principally in the San Joaquin Valley, only about 20 per cent of this low grade material reaching the Los Angeles territory. As distinguished from the output of the Los Angeles Lumber Products Company, only 5 per cent of these mills' output is used for shook, the testimony being to the effect that a larger profit is secured for low grade lumber in the local territory than obtains from the sale of shook.

The Yosemite Lumber Company ships 30 per cent of its products to points outside the State of California. Of the 70 per cent sold within California 25 per cent is upper grade material and 75 per cent low. Box shook constitutes approximately 15 per cent of the low grade material.

The mills located at Klamath Falls, Oregon, and at Sisson, California, produce 30 per cent upper and 70 per cent low grade lumber. Of the upper grades but very little reaches southern California points. Practically all of the low grades, or twenty million feet, is manufactured into box shook, of which 25 per cent reaches southern California territory and 40 per cent San Joaquin Valley points.

The Weed Lumber Company operates a large remanufacturing plant and forwards much of its tonnage in the shape of sash, doors, moldings and high grade lumber. Of the lumber produced in the Weed territory approximately 35 per cent is shook and 65 per cent lumber and finished products. Practically no low grade lumber reaches the Cali-

ifornia consuming points, most of this commodity being converted into box shook and disposed of throughout the state, principally in the San Joaquin, Sacramento and Santa Clara valleys and the Los Angeles territory. Witness for this company, as did witnesses for the other similarly located mills, testified that if they were unable to dispose of their box shook financial results would be most unsatisfactory and in some instances, even result in suspension of operations.

Testimony was also to the effect that because of water competition none of the lumber of the Weed Lumber Company is ever sold in San Francisco or in the San Francisco Bay region.

The lumber produced in the Susanville-Westwood territory consists principally of white pine, fir and sugar pine, running 25 per cent high grade and 75 per cent low, the lower grades being used chiefly for box shook, and is distributed throughout California, about 35 per cent going into the territory south of Bakersfield.

Box shook is a lumber product cut into convenient lengths and thicknesses to meet the requirements of the various box and crate users, and, with the exception of heavier loading, presents no transportation difficulties which would justify rates different from those on lumber.

California, because of its diversified climatic conditions, uses box shook during the entire twelve months of the year. In the southern part of the state there is a heavy demand from the citrus fruit shippers, beginning in January and lasting until the middle of the summer, while in the northern district the deciduous fruits move from May to December. The principal territory, roughly described, comprises the Sacramento, Santa Clara and San Joaquin valleys and the southern California territory south of the Tehachapi, approximately one-fourth of the shook being used in each of these sections.

In addition to the shook requirements of the fruit producers, large quantities are consumed by the vegetable, melon, butter, egg, oil and other industries. The shook is sold as a general rule under contract for quantity deliveries at fixed periods of time to meet the growers' needs and covers terms of from one to five years.

The testimony further shows that in the transportation of shook the carriers must place the commodity on the preferential list, it being absolutely necessary to keep the producers supplied with box material in order that the fruits and other perishable commodities shall have prompt and continuous service. A carload of shook averages 25,000 feet and the boxes for a carload of fruit require 2,000 feet, therefore it takes between twelve and thirteen carloads of fruit to consume one carload of shook.

The testimony would further indicate that Oregon fir lumber, because of its special qualifications, is in demand in the State of Cali-

for particular kinds of construction and is not, therefore, in direct competition with the local lumber, such as hemlock, spruce, cedar and redwood. The testimony also shows that the railroads do not carry any box shoo from Oregon points to California consuming points.

The average tonnage of carload shipments of lumber and shoo varies per 1000 feet in the different producing and shipping territories, dependent upon the kinds of material transported. This difference in weight makes the transportation cost on the same number of feet and at the same rate greater on one variety of lumber than on the other and is likewise reflected in the earning per carload of the defendant carriers, for cars of like size load the same number of thousand feet regardless of the total weight of the shipments.

Lumber from San Pedro, where complainant, Los Angeles Lumber Products Company, operates its mills, loads an average of 52,000 pounds (26 tons); in the Madera and Pinedale districts the average is 46,000 pounds (23 tons); at Weed 48,000 pounds (24 tons); at Willamette Valley and other northern shipping points 66,000 pounds (33 tons). It is therefore apparent that in arriving at freight rates these weight-loading differences must be given consideration.

Cost of Service.

Complainants attempted to show by carefully prepared exhibits and the testimony of expert witnesses the approximate operating cost per ton of transporting lumber, and in arriving at the figures they used the average operating cost divided between freight and passenger service, in accordance with the rules of the Interstate Commerce Commission, and segregating the freight costs into component parts chargeable to line haul, yard, terminal, etc. The principal exhibit dealing with this cost study is very elaborate in detail and covers some forty-five pages, giving the cost not only as to the line haul and terminal expenses but also that involved in branch line service as compared with main line and mountain against valley. The result of this cost study was to attempt to set a reasonable rate per mile per 100 pounds. Many of the rates arrived at by use of this cost study are found to be higher than the mileage rates proposed by this applicant. This condition leads us to the obvious conclusion that while the actual cost of transportation is of importance and value, it can not be used as an accurate determining factor in the construction of rates for an entire territory where blanketing of rates is necessary and where water competition must be met, for the cost item is only one of the factors to be given consideration in solving a problem of this kind.

History of Rates—Blanketed Rates.

Much testimony was offered by complainants, defendants and interveners, and especially by the defendants, dealing with the origin of the lumber rates between points within the State of California and from points outside of California to the California destinations.

The defendant, Southern Pacific Company, through its assistant general freight agent, introduced Exhibits Nos. 118 and 119, giving the history of the lumber rates beginning with the year 1894 to the present tariffs and show the rates to San Francisco, Sacramento, Bakersfield and other selected points from Portland, Eugene, Grants Pass and Medford, Oregon, and Westwood, California, Westwood being illustrative of the blanketed California territory, Newcastle to Westwood and Red Bluff to Dorris. The distance from Westwood to Sacramento is 323 miles, from Grants Pass 386 miles and from Medford 353 miles. Another exhibit, No. 131, carries the rates to San Francisco, Stockton, Sacramento, Hanford, Fresno, Tulare, Bakersfield, Los Angeles and Colton from selected lumber shipping points, such as San Francisco, Oakland, Placerville, Westwood, Weed and Madera.

The intent of the exhibits and the testimony in explanation were to the effect that the lumber rates were established in the first instance and have been changed from time to time over this period of thirty years to meet the varying conditions created by reason of the grouped and contiguous locations of the producing mills, competition of the carriers by water, and the contest between defendant Southern Pacific Company and the Western Pacific for the lumber tonnage to California consuming points, all of these elements being strong factors in the making of the rates. The rates under attack are blanketed over great areas at points of origin and in certain districts to the points of destination.

Lumber is produced in immense quantities in many of the interior districts in northern California and in much of the territory along the Pacific ocean, from San Francisco Bay to the Canadian line, the principal port shipping points in northern California being Albion, Fort Bragg and Eureka.

Many of the railroad rates published during the last three decades are illustrative of the efforts made to secure tonnage in competition with lumber-carrying boat lines operating on the Pacific ocean to the California points, principally to the wharves at San Francisco and Los Angeles.

It would not be possible and, also, would serve no good purpose to deal with all of the rate situations, same being fairly illustrated by reviewing adjustments at a few of the pivotal points.

In the year 1893 the rate from Boca to Sacramento, a distance of 128 miles, was 14½ cents; this rate remained in effect until February, 1911, when it was reduced to 10 cents, the explanation being that the adjustment was necessary to meet the rates published by the Western Pacific from mills operating in the Feather River canyon. The 10-cent rate continued until the war-time changes, when it was made 12½ cents by General Order No. 28, effective June 25, 1918; became 15½ cents August 25, 1920, by reason of *Ex Parte* No. 74 and was reduced to 14 cents July 1, 1922, in the general rate reductions of that year. The rate is 14 cents at the present time.

In the year 1906, because of water competition, the rates from northern California producing points to the port of San Francisco were reduced, but no corresponding changes were made to the intermediate consuming points, such as Stockton and Sacramento, the competitive conditions being different and, also, at that early date carriers built rates upon methods entirely different from those employed after the passage of the positive state regulatory statutes, beginning in 1911.

The Western Pacific Railroad commenced operations early in 1911 and established the rate of 10 cents from Boca to Sacramento, which was met by the Southern Pacific in February, 1911, as heretofore stated. The Boca to Sacramento rate of 10 cents was not published as the rate from Westwood to Sacramento until 1913, and the same rate was not established from Weed-Dorris to Sacramento until 1915.

The distance from Boca to Sacramento is 128 miles; Westwood to Sacramento 323 miles and Weed-Dorris to Sacramento 324 miles. At the time the Westwood rates were published by the Southern Pacific Company the Western Pacific tracks passed through Keddie, from which point the construction of a branch line of from 25 to 35 miles in length would have put that company's rails into the Westwood timber belt via a short route, approximating 175 miles to Sacramento, as compared with the Southern Pacific line through Fernley, Nevada, to Sacramento of 323 miles.

The logging road of the Westwood mill operators is now within ten miles of Crescent Mills, on the Indian Valley Railroad, having connection with the Western Pacific at Paxton, a point 3.4 miles closer to Sacramento than is Keddie. This is the competition the Southern Pacific alleges influenced the Westwood and Weed-Dorris rate adjustments. The Westwood-Sacramento rate of 10 cents in 1913, now 14 cents, blankets from Newcastle, a point 31 miles east of Sacramento, or for 292 miles. The same rate is in effect from Dorris-Weed to Sacramento, 324 miles, covering the territory Oroville and north, a blanket of 246 miles. In the San Joaquin Valley the 14 cent rate applies from

Sanger-Madera, a blanket of 36 miles for an average haul of 160 miles. From Western Pacific points the blanket is from Oroville to Hackstaff, a distance of 166 miles.

The Southern Pacific also has in effect an 11 cent rate to Sacramento, blanketed from such points as San Francisco, Oakland, Bay Point, Placerville, Marysville and Oakdale. This blanketed territory covers the close-by lumber shipping points, where the distance varies between 88 miles from San Francisco to a minimum of 52 miles from Marysville. Water competition is also held mainly responsible for the alleged depressed rates and the large territorial blankets reflected in the rates from the interior California mills.

As early as 1907 rates in violation of the long and short haul provisions of the state constitution were made from interior mills to southern California points. As illustrative, 32½ cents was published from Weed to Los Angeles, with 39¾ cents from Weed to Bakersfield, and these rates were blanketed from practically all northern California points, beginning at Placerville, Newcastle, Boca, Red Bluff, extending to the California-Oregon line.

Rates without number might be quoted to all points throughout the state where water-carrier competition plays a part, but the picture would be very little different from that in connection with the rates to the San Francisco and Los Angeles territories, where the competition is the most severe. Rail carriers maintain that the entire adjustment of the lumber rates and particularly those to the San Francisco Bay and the Los Angeles harbor territories are greatly depressed, but such rates, they allege, are the highest they can charge and continue to receive a reasonable share of the lumber tonnage from the interior mills.

There was much testimony and many exhibits dealing with the lumber rates from the Oregon mills located at Portland, Eugene, Grants Pass and Medford to California consuming points. This Oregon territory became a factor in the California trade about the year 1898, when the Southern Pacific Company put in rates from the Willamette Valley territory to meet the competition of lumber moving via the ocean carriers. The Willamette Valley territory covers an area of approximately 150 miles in length, extending from Portland to Eugene, in Oregon.

The adjustment of these rates has been before the Interstate Commerce Commission in a number of formal proceedings and the rates prevailing at the present time are those reflecting certain orders of the Federal Commission.

We will not enter into a discussion of the Oregon-California adjustments, leaving that subject to the Interstate Commerce Commission in

its analysis of Docket No. 15303. It is sufficient here to state that the Oregon shipping mills supply vast quantities of lumber to California consumers, principally Douglas fir, and this tonnage is of great importance to the rail carriers.

Complainant bases its main contention upon a comparison of the rates and of the per ton mile earnings applying to their lumber with the rates from the competing mills on shipments from the northern territory and particularly in connection with the blanketed rate of 14 cents applying to the Sacramento gateway.

Much of complainant's testimony was grounded upon a proposed mileage scale of rates measured in part by the adjustment now in effect from Westwood-Weed to Sacramento, 323 miles, but apparently without sufficient regard for the blanketed area, of which such rate is only a part, and of the circumstances and conditions under which it was established. Complainant's plant is entirely differently situated from that of its California competitors in the northern part of the state; the timber regions extend from the vicinity of Fresno to the Oregon line, a distance of approximately 500 miles.

The manufacture of lumber in southern California from locally grown logs is of no commercial importance, there being no large forests and, therefore, no local mill competition. In the northern half of the state the circumstances are entirely dissimilar, the mills there being compelled to conduct their local business in competition with each other, lumber being produced in heavy quantities at the very front door of some of the large consuming centers, particularly in the San Joaquin and Sacramento valleys. The user of lumber and shook is, of course, interested in the transportation charges and if rates were based on mileage only would purchase the necessary supply from the mill having the lowest freight rate, provided the nearby mills could furnish the quantity required. The testimony indicates that no group of nearby mills can meet trade requirements at the peak of the season and the result must be a reaching out into long-haul points, with a constant increase in the transportation costs. A slight decrease in rates from points of limited local production would serve but a poor offset to consumers, by reason of the narrowed purchasing markets.

Commodities, such as oil, coal, lumber, etc., can only be secured from their natural source and are limited in productive area which can not be shifted, but they are consumed throughout widely extended markets and, therefore, the practice has grown, over a long period of years, of blanketing rates from the sources of supply to the consuming markets. Blankets of this kind usually disregard actual mileage, although they involve rates apparently high from points on the edge nearest the consuming markets in comparison with those from the most distant

point in the blanket, but if such adjustments be properly balanced they must provide rates not unreasonable from either a carrier or a shipper viewpoint.

The competition under which the northern California mills are compelled to conduct their local business is the important consideration given to the blanketed rates established by carriers in that territory. This northern California territory has not been attacked by any consumer and since carriers may make rates to meet competitive conditions, so long as the rates are reasonably compensatory and do not create undue preference or prejudice, this Commission must give careful consideration to any action looking to a disruption of blanket adjustments of long standing apparently satisfactory to the producers and consumers in the territory to be affected and upon the faith of which large industrial plants have been established.

Complainants, at the outset of the hearings, by the testimony of competent witnesses, stated that the sale of their lumber had been restricted in the territories immediately beyond Los Angeles by reason of the rates from San Pedro being higher than the traffic could afford to pay in competition with lumber moving from other and more distant producing points. Numerous exhibits were introduced setting forth a comparison of these lumber rates from San Pedro with those applying from other points to the same destinations, also with other lumber rates throughout the country for equi-mileage hauls.

In addition, there were comparative exhibits showing mileage rates for such commodities as lumber, cottonseed oil, fertilizer, cement, grain, lime, brick, etc. These exhibits are interesting and profitable, but the distance of haul is only one of the many factors entering into freight rates, and unless the circumstances and conditions of transportation are similar and the rate relationship adversely affects traffic of complainants, no unlawful discrimination may predicate upon the mere differences in rates found to exist as between communities entirely differently located.

The following table, prepared from exhibit of record and from filed tariffs, gives the present lumber and shook rates from San Pedro and those from representative competing points of origin to typical destinations, showing differentials in favor of San Pedro:

From	To					
	Los Angeles	Pomona	Riverside	El Centro	Santa Paula	
	A and B	A and B	A and B	A and B	A and B	A and B
Oroville, Weed, Dorris, Massack, Loyalton, Westwood	39½	39½	39½	56½	39½	39½
San Pedro.....	4	11½	15½	36½	17½	17½
Differential.....	35½	28	23	20	22	
McCloud.....	43	43	43	60½	43	
San Pedro.....	4	11½	16½	36½	17½	17½
Differential.....	39	31½	26½	24	25½	
Sonora, Standard.....	34	34	34	A 65 B 56½		
San Pedro.....	4	11½	16½	36½ 36½		
Differential.....	30	22½	17½	28½ 20		
Placerville.....	35	35	35	56½	A 48½ B 39½	
San Pedro.....	4	11½	16½	36½	17½ 17½	
Differential.....	31	23½	18½	20	31 22	

A—Lumber; B—Shook.

SAN JOAQUIN VALLEY MILLS.

(Compared with San Pedro.)

From	To									
	Los Angeles		Pomona		Riverside		El Centro		Santa Paula	
	A	B	A	B	A	B	A	B	A	B
Merced Falls.....	34	34	34	34	34	34	60	60	*	37
San Pedro.....	4	4	11½	11½	16½	16½	36½	36½	--	17½
Differential.....	30	30	22½	22½	17½	17½	23½	23½	--	19½
Madera.....	29	29	29	29	29	29	52	52	34	25
San Pedro.....	4	4	11½	11½	16½	16½	36½	36½	17½	17½
Differential.....	25	25	17½	17½	12½	12½	15½	15½	16½	7½
Pinedale.....	30	30	30	30	30	30	53½	53½	35½	26½
San Pedro.....	4	4	11½	11½	16½	16½	36½	36½	17½	17½
Differential.....	26	26	18½	18½	13½	13½	17	17	18	8

A—Lumber.

B—Shook.

*No through rate published; combination rates apply.

OREGON MILLS.

(Compared with San Pedro.)

From	To														
	Los Angeles			Pomona			Riverside			El Centro			Santa Paula		
	A	A	B	A	A	B	A	A	B	A	A	B	A	A	B
Portland.....	*60	50	50	*60	50	50	*60	50	50	*67½	62	67	*60	50	50
San Pedro.....	4	4	4	11½	11½	11½	16½	16½	16½	36½	36½	36½	17½	17½	17½
Differential..	*56	46	46	*48½	38½	38½	*43½	33½	33½	*31	25½	30½	*42½	32½	32½
Grants Pass.....		41½	41½		41½	41½		41½	41½		59	59		41½	41½
San Pedro.....		4	4		11½	11½		16½	16½		36½	36½		17½	17½
Differential..		37½	37½		30	30		25	25		22½	22½		24	24
Klamath Falls....		40	40		40	40		40	40		57½	57½		40	40
San Pedro.....		4	4		11½	11½		16½	16½		36½	36½		17½	17½
Differential..		36	36		28½	28½		23½	23½		21	21		22½	22½
A—Lumber.															
B—Shook.															
*—Manufactured lumber.															

NORTHERN CALIFORNIA MILLS.

(Compared with Madera.)

From	To									
	Los Angeles		Pomona		Riverside		El Centro		Santa Paula	
	A	B	A	B	A	B	A	B	A	B
Weed.....	39½	39½	39½	39½	39½	39½	56½	56½	39½	39½
*Westwood.....	29	29	29	29	29	29	52	52	34	25
Madera.....	10½	10½	10½	10½	10½	10½	4½	4½	5½	14½
Differential..										
McCloud.....	43	43	43	43	43	43	60½	60½	43	43
Madera.....	29	29	29	29	29	29	52	52	34	25
Differential..	14	14	14	14	14	14	8½	8½	9	18
Placerville.....	35	35	35	35	35	35	56½	56½	48½	39½
Madera.....	29	29	29	29	29	29	52	52	34	25
Differential..	6	6	6	6	6	6	4½	4½	14½	14½

OREGON MILLS.

(Compared with Madera.)

From	To														
	Los Angeles			Pomona			Riverside			El Centro			Santa Paula		
	A	A	B	A	A	B	A	A	B	A	A	B	A	A	B
Portland.....	*60	50	50	*60	50	50	*60	50	50	*67½	62	67	*60	50	50
Madera.....	29	29	29	29	29	29	29	29	29	52	52	52	34	34	25
Differential. .	*31	21	21	*31	21	21	*31	21	21	*15½	10	15	*26	16	25
Grants Pass.....		41½	41½		41½	41½		41½	41½		59	59		41½	41½
Madera.....		29	29		29	29		29	29		52	52		34	25
Differential. .		12½	12½		12½	12½		12½	12½		7	7		7½	16½
Klamath Falls....		40	40		40	40		40	40		57½	57½		40	40
Madera.....		29	29		29	29		29	29		52	52		34	25
Differential. .		11	11		11	11		11	11		5½	5½		6	15
A—Lumber.															
B—Shook.															
*—Manufactured lumber.															

The Los Angeles Lumber Products Company (Case No. 1951) now has railroad rate differentials from San Pedro to southern California points, in competition with the northern California mills, ranging from \$3.50 to \$7.80 per ton from San Joaquin Valley mills, Pinedale, Madera and Merced, of from \$1.50 to \$6 per ton, and from Oregon mills of from \$4.20 to \$11.20 per ton. Complainants, Madera Sugar Pine Company, Sugar Pine Lumber Company and Yosemite Lumber Company (Case No. 1973) have favorable differentials, based on Madera, of from 90 cents to \$3.60 against northern California mills, and from \$1.10 to \$6.20 against Oregon mills.

The following table, compiled from exhibits, is illustrative of the present rates on lumber from San Pedro to consuming destinations compared with the rates from the named competing points:

LUMBER.

From	To	Miles	Rate
San Pedro	Fresno	300	46½
Pinedale (1)	Fresno	21	7
Madera	Fresno	22	7
Merced Falls (2)	Fresno	70	17
San Francisco-Oakland (3)	Fresno	189	25
San Pedro	Exeter	264	45
Pinedale (1)	Exeter	72	16
Madera	Exeter	73	15
Merced Falls (2)	Exeter	130	23
San Francisco-Oakland (3)	Exeter	240	31½
San Pedro	Bakersfield	193	37½
Pinedale (1)	Bakersfield	128	18
Madera	Bakersfield	129	17
Merced Falls (2)	Bakersfield	186	25
San Francisco-Oakland (3)	Bakersfield	296	31½
San Pedro	Merced	355	49
Pinedale (1)	Merced	76	15½
Madera	Merced	33	8½
Merced Falls (2)	Merced	24	11
San Francisco-Oakland (3)	Merced	133	17½
San Pedro	Sacramento	470	42½
Pinedale (1)	Sacramento	186	15½
Madera	Sacramento	149	14
Merced Falls (2)	Sacramento	139	22
San Francisco-Oakland (3)	Sacramento	84	11
San Pedro	San Jose	445	42½
Pinedale (1)	San Jose	203	20
Madera	San Jose	161	18½
Merced Falls (2)	San Jose	151	20
San Francisco-Oakland (3)	San Jose	41	4½
San Pedro	Santa Barbara	126	25
Pinedale (1)	Santa Barbara	344	35½
Madera	Santa Barbara	345	34
Merced Falls (2)	Santa Barbara	402	50
San Francisco-Oakland (3)	Santa Barbara	360	31½
San Pedro	Los Angeles	24	4
Pinedale (1)	Los Angeles	297	30
Madera	Los Angeles	298	29
Merced Falls (2)	Los Angeles	355	34
San Francisco-Oakland (3)	Los Angeles	462	31½
San Pedro	Colton	81	16½
Pinedale (1)	Colton	354	30
Madera	Colton	355	29
Merced Falls (2)	Colton	413	34
San Francisco-Oakland (3)	Colton	519	31½
San Pedro	Colorado	274	40½
Pinedale (1)	Colorado	548	49
Madera	Colorado	549	52
Merced Falls (2)	Colorado	606	60
San Francisco-Oakland (3)	Colorado	712	51
San Pedro	Calexico	250	37½
Pinedale (1)	Calexico	524	53½
Madera	Calexico	525	52
Merced Falls (2)	Calexico	582	60
San Francisco-Oakland (3)	Calexico	689	56½

(1)—Located on Minarets and Western Railway.

(2)—Located on Yosemite Valley Railroad.

(3)—Oakland mileage.

The rate of $31\frac{1}{2}$ cents San Francisco to Los Angeles-San Pedro is blanketed over a large territory with Los Angeles as the central point. This rate blanket now covers the territory from Tarusa, in the San Joaquin Valley, and Templeton, on the Coast Line, each 250 miles north of Los Angeles, to Greenspot, a point 71 miles south of Los Angeles, or for 321 miles. The short line mileage, San Francisco to Greenspot, is 539 miles. The rate in the opposite direction, from San Pedro to San Francisco, for a distance of 490 miles, is the Class B nonintermediate rate of $42\frac{1}{2}$ cents.

Attention is directed to the rate of $31\frac{1}{2}$ cents from San Francisco to Bakersfield, 296 miles, and the rate of $46\frac{1}{2}$ cents from San Pedro to Fresno, 300 miles. However, the rate from San Francisco going south reflects the water competition to Stockton, a distance of 90 miles, which is not a controlling factor in the rate northbound to the same destination territory.

Carriers, in their testimony, explained that the $31\frac{1}{2}$ -cent rate from San Francisco to Los Angeles and the surrounding territory, was originally published nonintermediate in application to meet the water competition through San Pedro and, later, because of changed conditions, due principally to competition of the redwood lumber moving through Pittsburg on the San Francisco Bay, this rate was made to apply at all of the intermediate points. The other points appearing in the above table are further illustrative of the situation.

In the transportation of lumber, rail carriers recognize the strong competition existing in the northern California territory, due in large measure to the vast timber regions with their many producing mills, augmented by the competition of vessels transporting lumber from the river and ocean fronts, a situation creating forced rate adjustments, where of necessity blanketed zones have been established in disregard to a greater or less extent of the actual mileage of the haul. Here is a situation not existing in other parts of the state and the blanket rates throughout the northern timber regions can not be employed as a yard stick to measure mileage rates where circumstances and conditions are totally different. There has been no complaint by consumers of lumber in northern California and we are of the opinion nothing in this record requires our disturbing the local northern situation in order to decide the reasonable, just, nondiscriminatory and nonprejudicial rates to apply on lumber from San Pedro (Case No. 1951) and from Pinedale, Madera and Merced Falls (Case No. 1973).

Neither transportation nor traffic conditions as shown by this record warrant distinction in the rates between lumber and box shook. To only a limited number of stations are the lumber rates now higher than the shook rates and it is our conclusion that a difference in the rates has not been justified and should be discontinued.

The present adjustment of lumber rates from San Pedro to points in the San Joaquin Valley and into the territory south of Los Angeles lacks uniformity. A consistent and reasonable tariff can not be constructed by basing upon the Sacramento and San Francisco adjustments, where entirely different conditions exist and where carriers meet water, rail and production competition. A comprehensive study of complainants' proposed rates keyed under the 14-cent scale, Westwood-Sacramento, for 323 miles, leaves no doubt that these rates would be too low in territory where transportation is not influenced by the same factors responsible for rates in the northern California timber regions.

Upon consideration of all the facts of record, we are of the opinion and find that the present rates on lumber and shook, in carloads, minimum weight 30,000 pounds, from San Pedro, Pinedale, Madera and Merced Falls to the representative points enumerated below are and for the future will be excessive, unreasonable, unjust, discriminatory and prejudicial to the extent they differ from the following rates, in cents per 100 pounds:

To	From			
	San Pedro	Pinedale	Madera	Merced Falls
San Francisco.....	31½	20	18½	20
Niles.....	31½	20	18½	20
San Jose.....	31½	20	18½	20
Livermore.....	31½	20	18½	20
Port Costa.....	31½	20	18½	20
Tracy.....	31½	15½	14	17½
Stockton.....	31½	15½	14	17½
Lodi.....	31½	15½	14	17½
Galt.....	31½	15½	14	17½
Sacramento.....	31½	15½	14	17½
Suisun-Fairfield.....	31½	23½	22	23½
Orford.....	31	15½	14	17½
Oakdale.....	31	15½	14	14
Lyeth.....	31	15½	14	18
Volta.....	31	15½	14	22½
Los Banos.....	30	15½	14	22½
Silaxe.....	30	15½	14	22½
Firebaugh.....	30	13	11½	20
Ingle.....	30	13	11½	20
Kerman.....	30	10	8½	17
Armona.....	30	15½	14	22½
Hanford.....	30	13	11½	20
Manteca.....	31	15½	14	17½
Modesto.....	31	15½	14	14
Merced.....	30	15½	8½	--
Madera.....	30	10	--	14
Fresno.....	29	7	7	15½
Fargo.....	29	10	8½	17
Klink.....	29	13	11½	20
Exeter.....	29	15	13½	22
Porterville.....	29	16	14½	22½
Kingsburg.....	29	10	8½	17
Goshen Junction.....	26	13	11½	20

To	From			
	San Pedro	Pinedale	Madera	Merced Falls
Visalia.....	29	15	13½	22
Tulare.....	29	15	13½	22
Famosa.....	29	16	14½	22½
Bakersfield.....	29	18½	17	25
Mojave.....	19	26	25	32
Lancaster.....	16	26	25	32
Saugus.....	11	26	25	32
Los Angeles.....	--	30	29	34
Pasadena.....	--	30	29	34
Pomona.....	11½	30	29	34
Colton.....	14	30	29	34
Greenspot.....	16	30	29	34
Nilend.....	29	43½	43	44½
Brawley.....	33	45½	45	46½
El Centro.....	33	45½	45	46½
Calxico.....	33	45½	45	46½
Colorado.....	35	46½	46	47½
Redwood City.....	31½	20	18½	20
Lick.....	31	23½	22½	23½
Coyote.....	31	23½	22½	23½
Morgan Hill.....	31	25	24	25
Carnadero.....	31	27	26	27
Watsonville.....	30	29	28	29
Camphoria.....	30	32	31	32
Metz.....	30	33	32	33
King City.....	29	34	33	34
Bradley.....	29	36	35	36
Atascadero.....	29	38	37	38
Eaglet.....	29	38	37	38
San Luis Obispo.....	29	40	39	40
Oceano.....	29	40	39	40
Guadalupe.....	28	41	40	41
Surf.....	26	41	40	41
Santa Barbara.....	19	34	33	38
Ventura.....	16	32½	31½	36½
Montalvo.....	16	32½	31½	36½
Oxnard.....	16	32½	31½	36½
Chatsworth.....	11	32½	31½	36½
Fillmore.....	14	30	29	34

In an investigation covering so large a scope as this proceeding it is impossible to determine the rate which should apply to each point in the destination territory. Defendants will be expected to revise the rates, in addition to those specifically prescribed. The rates prescribed will be used as a guide and rates adjusted at intermediate points, giving due regard to distance.

The rates here ordered into effect and those fixed by defendants at the intermediate points shall not be subject to the rules of constructing combination rates, as provided in Agent B. T. Jones' Freight Tariff No. 228, Cal. R. C. No. 1.

Reparation is asked by complainants, Los Angeles Lumber Company (Case No. 1951) against shipments of lumber forwarded from San Pedro to various points.

The port of San Pedro (Los Angeles Harbor) has for many years been the largest lumber transshipping point in California, if not on the Pacific coast, and the present lumber rates reflect the adjustments over a long period of time. In an extensive readjustment of rates as that here involved, in which are included increases as well as decreases, reparation may not properly be awarded and the same is hereby denied.

As heretofore stated, these proceedings were heard jointly with the representatives of the Interstate Commerce Commission and submitted on a common record. The Interstate Commerce Commission has rendered its tentative opinion and order and, therefore, this proceeding will be held open for a supplementary order, should the same appear necessary following argument and final conclusion by the federal authority.

ORDER.

These cases being at issue upon complaints and answers on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed its opinion containing its findings of fact and conclusions thereon, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the above named defendants, according as they participate in the transportation, be and they are hereby notified and requested to desist, on or before June 15, 1925, and thereafter abstain from publishing, maintaining and applying rates not in accordance with the opinion which precedes this order.

It is hereby further ordered, that the above named defendants according as they participate in the transportation, be and they are hereby notified and required to establish, on or before June 15, 1925, upon notice to this Commission and to the general public, by not less than fifteen (15) days filing and posting in the manner prescribed in section fourteen (14) of the Public Utilities Act, and thereafter to maintain and apply to the transportation of lumber, in carloads, the rates as described in the opinion which precedes this order.

Dated at San Francisco, California, this first day of April, 1925.

DECISION No. 14733.

IN THE MATTER OF THE APPLICATION OF PALOS VERDES TRANSPORTATION COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR A CERTIFI-

CATE AUTHORIZING IT TO SELL AND ISSUE ONE HUNDRED FIFTY SHARES OF ITS CAPITAL STOCK.

Application No. 10848.

Decided April 4, 1925.

Musick, Burr and Pinney, by C. E. Musick, for Applicant.

SHORE, Commissioner.

OPINION.

In this application Palos Verdes Transportation Company asks permission to establish service for the transportation, for hire, of passengers and freight between Redondo Beach and Palos Verdes Estates and intermediate points and to issue and sell, at par for cash, 150 shares of its common capital stock of the aggregate par value of \$15,000 for the purpose of acquiring equipment.

A public hearing was held in this matter, at which time the application was amended so as to eliminate the request for permission to transport freight. The matter was submitted and is now ready for decision.

It appears that Palos Verdes Transportation Company was organized on or about December 9, 1924, primarily for the purpose of establishing service for the transportation of passengers from Redondo Beach to Palos Verdes Estates, a new district now being opened about two miles south of Redondo Beach. The routes it proposed to follow and the rates to be charged are set forth in Exhibit "B" and Exhibit "B-2," filed in this proceeding, as follows:

Proposed Fares and Rates for Passenger Service.

10¢ Zone.

Beginning at Pacific Avenue, Redondo, to include Pacific Avenue, Esplanade, Redondo and Wilmington Highway, Huntington property, Granvia La Costa, via Anita, via Alameda, Granvia Valmonte, via Campesina, via Del Monte, via Nogales, via Talamantes, via Zurita, Dolores Plaza, via Coronel, Granvia La Costa, entrance Palos Verdes Estates.

5¢ Zone.

Beginning at entrance Palos Verdes Estates, to include Granvia La Costa, via Anita, via Alameda, Granvia Valmonte, via Campesina, via Del Monte to intersection of via Nogales and via Mirabel, Granvia La Costa to intersection of Granvia La Costa and via Coronel.

5¢ Zone.

Beginning at Pacific Avenue, Redondo, to include Pacific Avenue, Esplanade, Redondo and Wilmington Highway to intersection of Catalina Avenue and Huntington Road.

The proposed fares, tariffs and rates of charges for passage from one zone into any other zone or zones will be in the sum of ten cents.

At present Motor Coach Company is engaged in operating automobile stages for the transportation of passengers within the city of Redondo Beach. There has been filed in this proceeding a stipulation

duly signed by the president and secretary of applicant and of Motor Coach Company in which Motor Coach Company waives any and all grounds of protest to the granting of this application, provided that in the event the application be granted there be inserted in the order of the Commission a restriction against the doing of any local business by applicant over any portions of the routes proposed to be served in so far as such proposed routes parallel the existing lines of Motor Coach Company, that is, along Pacific avenue, Esplanade and Redondo and Wilmington boulevard, all within the city of Redondo Beach.

It has been reported to the Commission in a former proceeding that the Palos Verdes Estates consists of about 3200 acres, which have been divided into 6000 lots. It appears that about 60 per cent of the lots have now been sold, that about thirty-five families are now living in the district and that an extensive building program is under way. Applicant reports that at present there are no stage or truck lines, steam railroads or electric railways operating from Redondo Beach to the district and it therefore alleges that present and future public convenience and necessity require the service it now proposes.

The company reports that in its opinion one automobile stage will be sufficient to meet the present demand for service. It therefore intends to acquire, at this time, for approximately \$5,450, a 1925 twenty-two passenger Reo bus, and later to add additional equipment as needed. It further proposes to use approximately \$225 to purchase three chauffeurs' uniforms, making a total expenditure at this time of approximately \$5,675.

Applicant plans to finance the cost of the equipment through the sale of its stock. It asks permission at this time to issue and sell \$15,000 of common capital stock at par for cash to Bank of America, Trustee of the Palos Verdes Estates, although it is not in a position to definitely advise the Commission of the purposes for which all the proceeds to be received will be expended. The order herein will therefore provide that all proceeds in excess of approximately \$5,675 may be expended only when and as hereafter authorized by the Commission in subsequent orders.

I herewith submit the following form of order:

ORDER.

Palos Verdes Transportation Company having applied to the Railroad Commission for a certificate of public convenience and necessity and for an order authorizing the issue of stock, a public hearing having been held and the Commission being of the opinion that the application should be granted as herein provided:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation of an auto-

mobile stage service for the transportation of passengers between the city of Redondo Beach and Palos Verdes Estates, as indicated in the foregoing opinion, provided, however, that no local passengers be carried over any portions of the routes proposed in so far as such routes parallel the existing lines of Motor Coach Company, that is, along Pacific avenue, Esplanade and Redondo and Wilmington boulevard within the city of Redondo Beach; and

It is hereby ordered, that a certificate of public convenience and necessity be and it is hereby granted to Palos Verdes Transportation Company.

It is hereby further ordered, that Palos Verdes Transportation Company be and it is hereby authorized to issue and sell, at par for cash, 150 shares of its common capital stock of the aggregate par value of \$15,000.

The authority herein granted is subject to the following conditions:

1. Within thirty days from the date hereof applicant shall file with the Commission its written acceptance of the certificate herein authorized, and shall also file, in duplicate, its tariff of rates and time schedules, such tariff of rates and time schedules to be identical with those attached to the application herein.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, hypothecated, transferred or assigned unless the written consent of the Railroad Commission is first secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. Applicant may use approximately \$5,675 of the proceeds to be received from the sale of the stock herein authorized to finance the cost of the equipment to which reference is made in the foregoing opinion. The remaining proceeds may be expended only for such purposes as the Commission might authorize in subsequent orders.

5. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted will become effective upon the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of April, 1925.

DECISION No. 14735.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, FOR PERMISSION TO INSTALL A GRADE CROSSING OVER THE TRACKS OF PACIFIC ELECTRIC RAILWAY COMPANY AT ATLANTIC AVENUE.

Application No. 10436.

Decided April 4, 1925.

GRADE CROSSING — SEPARATION OF GRADES — COST APPORTIONED — TEMPORARY CROSSING.—A temporary crossing of Atlantic avenue over the tracks of Pacific Electric Railway's Santa Ana line, one mile southeast of Lynwood, is authorized, same to be replaced by a subway carrying Atlantic avenue under the railway tracks at such time as Atlantic avenue is paved between Long Beach and Pasadena. The cost of such grade separation, exclusive of paving, to be apportioned as follows: 75 per cent by applicant; 25 per cent by Pacific Electric Railway Company.

Roy W. Dowds, for Applicant.

Frank Karr, for Pacific Electric Railway Company.

John R. Berryman, Jr., for Los Angeles County Grade Crossing Committee.

BY THE COMMISSION.

OPINION.

In this application the board of supervisors of Los Angeles County ask permission to construct Atlantic avenue at grade across Pacific Electric Railway Company's so-called "Santa Ana Line."

A public hearing was held in this matter before Commissioner Whittlesey in Los Angeles, on November 5, 1924.

The testimony shows that it is the plan of Los Angeles County to make Atlantic avenue a major highway artery between the cities of Long Beach and Pasadena, a distance of some twenty-six miles. This highway is now in process of being opened throughout the greater portion of its length. The course of Atlantic avenue is in a northerly and southerly direction, passing through the municipalities of Alhambra, Monterey Park and Maywood, and the unincorporated towns of Belvedere, Bell and Cudahy, all in Los Angeles County. This new highway does not pass through any portion of the city of Los Angeles, but runs a short distance to the east thereof.

The county of Los Angeles has now acquired practically all of the right of way for this new highway that is within the unincorporated portion of the county, although there is a considerable portion of it which is not yet open to traffic. Atlantic avenue, as now deeded to the county, varies from 80 to 100 feet in width, but it is planned ultimately to make the highway 100 feet in width throughout its entire length.

Between Cudahy and Long Beach, Atlantic avenue intersects Pacific Electric Railway Company's so-called "Santa Ana Line" at a point approximately one mile to the southeast of the town of Lynwood. In

the vicinity of this railroad, Atlantic avenue, as decided to the county, is 80 feet in width. For a short distance south of the railroad it is open to a width of 40 feet as the most westerly street of a new subdivision. To the north of the railroad, however, this highway is not yet opened to traffic, the route being across ground which is still being cultivated.

The county plans to begin work shortly on the grading and graveling of that portion of Atlantic avenue not now opened. After the highway is graveled it will be left open to traffic for a period of about one year to allow the roadbed to consolidate before it is paved. It is estimated it will take about three years to complete the improving, including paving, of Atlantic avenue between Long Beach and Pasadena.

Pacific Electric Railway Company operates a double track railroad on a 100-foot private right of way in the vicinity of the proposed crossing. A high-speed interurban service is maintained, with a headway of one hour during the greater portion of the day. There are a total of 45 scheduled passenger movements per day in addition to two daily freight trains and occasional extra train movements.

The existing public grade crossings nearest to the one proposed herein are located approximately one-half mile distant in either direction. The view of the railroad at the proposed crossing is good at this time, as there are no obstructions to interfere; and in addition, the tracks are elevated about three feet above the natural ground level.

From the evidence it appears that sufficient public convenience and necessity exists, or will in the near future exist, to justify the granting of a crossing of Atlantic avenue with this railroad. When Atlantic avenue, or the major portion thereof, is paved between Long Beach and Pasadena, it will attract a large volume of through traffic and there will then be an urgent public necessity for a grade separation at the location involved herein. In the interest of public economy, however, it appears that until such time as the major portion of this highway is paved, which, as stated above, is estimated to be about three years, a grade crossing would meet the public needs and not create a hazard of unusual magnitude. Such a program meets approval of all interested parties. Pacific Electric Railway Company estimates the cost of a grade crossing, including an automatic flagman, to be \$1,750. This will provide a crossing 33 feet in width with grades of approach a little less than 4 per cent. An estimate prepared jointly by applicant and Pacific Electric Railway Company shows the present-day cost of a grade separation at this location to be \$128,115. This plan provides for the highway to be constructed under the railroad by elevating the tracks six feet and depressing the highway sufficiently to make the necessary clearance.

It appears that the volume of highway traffic at first will be so small that a grade crossing would suffice for three years, therefore the ques-

tion whether a grade separation should reasonably be effected at this time must be determined from the standpoint of economy. A basis of comparison in this question of economy is whether or not three years' interest on the cost of a grade separation at this time would exceed the cost of a temporary grade crossing plus the excess cost of thereafter constructing the subway.

As far as the unit costs of labor and materials are concerned, there is no positive way of estimating what trend the present market rates will take in three years' time; therefore, we must assume, for the purposes of comparative estimates, that these prices will remain the same. Another important item to consider is that of property damage. It is evident that the opening of an important highway artery such as Atlantic avenue will have a material effect on the value of adjoining property. If a grade crossing is constructed and buildings are erected in its immediate vicinity, such improvements would undoubtedly add materially to the property damage when a grade separation is effected. It appears that the county plans to prevent excessive property damages if a grade crossing is constructed and later replaced with a grade separation, by requiring that before subdivision maps will be accepted for filing for the adjoining unplatted property north and south of the railroad and west of Atlantic avenue, provisions must be made which will look to a minimum of future damages. To this end the county also plans to enter into some form of agreement with the property owners adjacent to the proposed crossing. Since it thus appears that property damages will not be materially increased due to delaying the grade separation for about three years, it would be economical to delay the construction of the grade separation until such time as the major portion of the highway is paved, as the interest on the difference in cost of the two types of crossings over a period of three years will justify the construction of a grade crossing which is to be abolished at the time work begins on the grade separation.

It now remains to take up the question of an equitable apportionment of the cost of this improvement between the interested parties, namely, the applicant and Pacific Electric Railway Company. Although the crossing involved herein is an entirely new one, the railroad can not reasonably expect to escape being assessed some portion of the cost of the improvement, for the reasons set forth in the Commission's opinion in its Decision No. 14244, in Application No. 10192, dated November 8, 1924, wherein the city of Los Angeles asked permission to construct La Cienega boulevard beneath Pacific Electric Railway Company's "Venice Short Line," namely:

It is a well-established principle that the railroad incurs an obligation to reduce to a minimum the hazard at any of the crossings of the established lines of travel of the public, and the obligations of a carrier to participate to the extent of 50 per cent of the cost of completely eliminating such grade crossings at established

highways has become almost customary; nor is the railroad's obligation decreased in such a case because of the fact that highway traffic development has increased subsequent to the establishment of a railroad, to such an extent that grade crossing elimination, which originally was not justified, later becomes necessary.

It is thus evident that the railroad's obligation to provide reasonably safe access across its tracks is a continuing obligation, and it can not expect to wholly escape the burden of providing safe highways in addition to those already constructed at the time of the original railroad construction, when development of the community it serves demands such additional highways. In the present case the evidence shows that the development in the territory under consideration has reached a stage where an additional highway will in the near future be necessary, and for the reasons above indicated, some portion of the cost of separating the grades at this new highway crossing should equitably be borne by the railroad.

It appears that the question of division of cost in the application now under consideration is somewhat comparable to that considered in Application No. 10192, referred to above, and should not be lost sight of because of the fact that the interests of public economy require the actual construction of the grade separation to be postponed for a period of three years.

After due consideration of all the evidence in this case, it appears reasonable to grant applicant permission to construct Atlantic avenue at grade across Pacific Electric Railway Company's "Santa Ana Line," such authority to remain in effect for a period of about three years, at which time a grade separation is to be effected by constructing Atlantic avenue under the railroad in accordance with plans and specifications which shall have the approval of this Commission. The cost of the grade separation improvement shall be apportioned as follows: Seventy-five (75) per cent to applicant and twenty-five (25) per cent to Pacific Electric Railway Company—and it will be so ordered. The cost of the temporary grade crossing and its protection shall be apportioned as hereinafter indicated.

ORDER.

The board of supervisors of the county of Los Angeles having filed the above entitled application with the Commission for permission to construct Atlantic avenue at grade across Pacific Electric Railway Company's so-called "Santa Ana Line," a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and now ready for decision:

It is hereby found as a fact that public convenience and necessity require that applicant herein be given authority to construct Atlantic avenue across Pacific Electric Railway Company's so-called "Santa Ana Line," and that in the interest of public economy a grade crossing should be constructed to serve the public needs until such time as Atlantic avenue, or the major portion thereof, is paved between Long Beach and Pasadena, which work it is estimated will be completed within three years, after which a grade separation should be effected; and therefore,

It is hereby ordered, that permission and authority be and it is hereby granted to the board of supervisors of the county of Los Angeles, State of California, to construct Atlantic avenue at grade across Pacific Electric Railway Company's said "Santa Ana Line" at the location shown on the map attached to the application, said crossing to be in effect a public crossing until such time as Atlantic avenue, or the major portion thereof, is paved between Long Beach and Pasadena, the completion of which is estimated to take about three years, at which time the said grade crossing is to be replaced with a grade separation as hereinafter provided; said grade crossing to be constructed subject to the following conditions, namely:

(1) The entire expense of constructing said grade crossing shall be borne by applicant. The cost of its maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Pacific Electric Railway Company.

(2) The proposed grade crossing shall be constructed of a width not less than thirty (30) feet and at an angle of ninety (90) degrees to the railroad, and with grades of approach not greater than four (4) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereon of vehicular and other road traffic.

(3) An automatic flagman shall be installed for the protection of said grade crossing during the time it is in existence, at the sole expense of Pacific Electric Railway Company. Said automatic flagman shall be of a type and installed in accordance with plans or data approved by the Railroad Commission. The maintenance of said flagman shall be borne by Pacific Electric Railway Company. At the expiration of the authorization of said grade crossing, said automatic flagman shall be removed and retained as the property of Pacific Electric Railway Company.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission in writing of the completion of the installation of said grade crossing.

(5) If said grade crossing shall not have been installed within one (1) year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

It is hereby further ordered, that when Atlantic avenue, or the major portion thereof, is paved between Long Beach and Pasadena, the grade crossing above authorized shall be replaced by a subway

under the tracks, said subway to be constructed subject to the following conditions:

(1) Applicant herein shall prepare plans and specifications for said subway, which shall be submitted to and have the approval of this Commission. After such approval is secured, the construction of the subway shall be commenced within a reasonable length of time and the work continued in a diligent manner until the said subway is completed. These plans and specifications shall be submitted on or before the completion of said paving of Atlantic avenue.

(2) The work of constructing said subway shall be performed under the direct supervision of the board of supervisors of Los Angeles County in accordance with a program which shall have the approval of this Commission.

(3) All provisions of General Order No. 26 of this Commission which are pertinent hereto shall be complied with.

(4) The cost of said subway, exclusive of paving, shall be borne seventy-five (75) per cent by applicant herein and twenty-five (25) per cent by Pacific Electric Railway Company. The cost of paving shall be borne by applicant. The maintenance of that portion of the subway supporting the track structures shall be borne by Pacific Electric Railway Company. The roadway and drainage shall be maintained at the expense of applicant.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said subway.

It is hereby further ordered, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of both the said grade crossing and the said subway as to it may seem right and proper, and to revoke its permission if in its judgment public convenience and necessity demand such action.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this fourth day of April, 1925.

DECISION No. 14736.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA IN RELATION TO THE CALIFORNIA HIGHWAY COMMISSION FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF CROSSING OVER THE ATCHISON, TOPEKA AND SANTA FE RAILWAY AT CARLSBAD, SAN DIEGO COUNTY, STATE OF CALIFORNIA.

Application No. 10849.

Decided April 4, 1925.

BY THE COMMISSION.

OPINION.

This is an application by California Highway Commission for permission to construct a crossing over the tracks of The Atchison, Topeka and Santa Fe Railway Company, hereafter called the Santa Fe, at Cardiff, San Diego County, as more particularly shown on Exhibit "A" attached to and made a part of the application.

Construction of the proposed over crossing will not eliminate the existing grade crossing as the latter is at a considerable distance from the former and is necessary for local travel.

The Santa Fe agrees to the construction of the proposed crossing, and to the plans attached to the application as Exhibit "A."

Applicant and the Santa Fe have agreed as to a division of the cost of constructing the overhead crossing as shown by letter of March 17, 1925, from Mr. Paul Fratessa, attorney for California Highway Commission, as follows:

The State is to construct the overhead structure, and one-half the cost thereof is to be reimbursed by the Santa Fe. The Santa Fe is to pay the cost of grading for their tracks and moving their present passing track from its present location at our (highway) Station 479+70 to a position adjacent to and on the easterly side of the present main track. The railroad agrees that material excavated for this new track will be hauled and placed by them in the highway embankment approaching the overhead structure, the cost of completing the approach fills and of paving same to be paid by the state.

This agreement is corroborated by letter dated March 14, 1925, from Mr. W. K. Etter, general manager of The Atchison, Topeka and Santa Fe Railway Company—Coast Lines. The estimated cost of the grade separation is as follows:

	State	Santa Fe
Cost of overhead structure per estimate made before detailed plans were completed	\$23,000 00	\$28,435 00
Moving side track and excavating material.....	-----	9,614 00
Completing approaches and paving same.....	17,000 00	19,250 00
	<hr/> \$40,000 00	<hr/> \$57,299 00

ORDER.

People of the State of California in relation to the California Highway Commission having on February 18, 1925, made application for an order authorizing the construction of an overhead crossing over the tracks of The Atchison, Topeka and Santa Fe Railway Company at Carlsbad, San Diego County, State of California, as shown more particularly on the map (Exhibit "A") attached to the application, both parties having agreed that the application be granted and having further agreed as to the division of cost of constructing said overhead crossing, and it appearing to the Commission that a public hearing is not necessary and that this application should be granted under certain conditions hereinafter specified:

It is hereby ordered, that California Highway Commission be and it is hereby authorized to construct a state highway over the track of The Atchison, Topeka and Santa Fe Railway Company at Carlsbad, San Diego County, in accordance with the plan attached to the application and marked Exhibit "A", subject to the following conditions:

1. The crossing shall be constructed at Highway Commission Engineer Station 478+30.69 on road designated as Road VII-S.D.-2-B. and at an angle of 45° with the tracks of The Atchison, Topeka and Santa Fe Railway Company.

2. Clearances at said overhead crossing shall be in conformity with those specified in this Commission's General Order No. 26.

3. The cost of constructing said crossing shall be apportioned between the Highway Commission and The Atchison, Topeka and Santa Fe Railway Company in accordance with the agreement hereinbefore set forth in the opinion of this order.

4. Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

5. If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

6. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this fourth day of April, 1925.

DECISION No. 14755.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE SAFETY AND NECESSITY OF GRADE CROSSINGS OF SANTA FE AVENUE, AND OF THE TRACKS OF THE LOS ANGELES RAILWAY CORPORATION ACROSS THE TRACKS OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY, AND OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AT BUTTE STREET, IN THE CITY OF LOS ANGELES, STATE OF CALIFORNIA.

Case No. 2061.

Decided April 7, 1925.

GRADE CROSSING—SEPARATION OF GRADES—COST APPORTIONED.—Los Angeles Railway Corporation, Los Angeles and Salt Lake Railroad Company and The Atchison, Topeka and Santa Fe Railway Company are directed to eliminate the grade crossing of Santa Fe avenue and the tracks of the Los Angeles and Salt Lake Railroad Company and The Atchison, Topeka and Santa Fe Rail-

way Company at or near Butte street in the city of Los Angeles. Los Angeles and Salt Lake Railroad Company directed to prepare plans for such separation of grades and to file said plans with the Commission with the approval of The Atchison, Topeka and Santa Fe Railway Company, Los Angeles Railway Corporation, and city of Los Angeles within 120 days from date of the order herein.

The Commission reserves until further order, upon receipt of such plans, the apportioning of the cost of said grade separation, the principals being allowed an opportunity to agree among themselves as to such division of the cost.

F. E. Pettit, Jr., for Los Angeles and Salt Lake Railroad Company.

M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

S. M. Haskins, for Los Angeles Railway Corporation.

David R. Faries and *John R. Berryman, Jr.*, for the Automobile Club of Southern California.

Jess E. Stephens, City Attorney, and *Milton Bryan*, Assistant City Attorney, for the City of Los Angeles.

Frank Karr, for Southern Pacific Company.

S. M. Haskins, for the City of Vernon.

BRUNDIGE, Commissioner.

OPINION.

This is a proceeding instituted by the Commission on its own motion for the purpose of determining whether, in the interest of public safety, convenience and necessity, the installation and maintenance of additional protective devices, the separation of grades or the abolition of or relocation of grade crossings is or will be required at the grade crossing of Santa Fe avenue and the tracks of the Los Angeles Railway Corporation with the tracks of the Los Angeles and Salt Lake Railway Company, (hereinafter called the "Salt Lake") and The Atchison, Topeka and Santa Fe Railway Company (hereinafter called the "Santa Fe") at or near the intersection of Butte street with said Santa Fe avenue in the city of Los Angeles, and for the further purpose of determining the proportions in which the expense of construction and maintenance of any such additional protection, or separation of grades, or abolition or relocation of crossings, if prescribed, shall be divided among the interested parties.

This proceeding was instituted because of certain representations made to the Commission in connection with Application No. 10032, wherein the Salt Lake sought permission to use jointly Southern Pacific Company's passenger station at Fifth street and Central avenue in Los Angeles, and Southern Pacific Company sought to divert certain freight traffic from Alameda street to the east river bank via Butte street. In the Commission's Decision No. 13923, in which that application was granted, the following paragraph appears:

It is moreover to be anticipated that an unsatisfactory and hazardous condition will arise at Santa Fe avenue, and the Commission will immediately, upon making effective the arrangements outlined, institute proceedings on its own motion to determine whether a grade separation should be made at that point.

This referred to the crossing of the Salt Lake with Santa Fe avenue, a few feet south of Butte street, over which the Commission, by its

order, authorized the operation of a greatly increased number of passengers and freight movements.

Public hearings were held in this case in Los Angeles before Commissioner Brundige on December 31, 1924, and January 28, 1925.

Attitude of Interested Parties.

Counsel for the Salt Lake expressed the opinion that separation of grades would eventually be justified, but that conditions do not warrant the separation at the present time. The other carriers substantially concurred with this view. On the other hand, counsel for the Auto Club took the position that the separation is needed now and should be made as early as possible. The Vernon Southwestern Industries Association stated that in their opinion an immediate separation is justified. The city of Los Angeles is neutral in the matter and willing to abide by the Commission's decision.

General Description of the Location.

The intersection of Santa Fe avenue with Butte street is in the southeasterly part of the city of Los Angeles, a portion of the city devoted almost exclusively to industrial purposes. Santa Fe avenue has a width of 80 feet between property lines and 56 feet between curbs, and serves numerous industries adjacent to it with convenient trucking facilities. It is the principal north and south avenue of travel between Los Angeles and the city of Vernon. The Los Angeles Railway operates a double track street car line on Santa Fe avenue between Los Angeles and Vernon.

Butte street extends from Santa Fe avenue easterly to the river, but it has never been improved for vehicular travel and is devoted mainly to railroad operations. Two railroads operate across Santa Fe avenue at Butte street; namely, the Santa Fe and the Salt Lake, each company having at the present time but one track. Southern Pacific Company and Pacific Electric Railway Company each have an interchange yard, lying to the southwest of Santa Fe avenue and Butte street. These yards have connections to both the Santa Fe and Salt Lake tracks near Santa Fe avenue. The Southern Pacific and the Salt Lake jointly own an industrial lead track located in Santa Fe alley, parallel to and about 200 feet east of Santa Fe avenue. This track, crossing as it does the tracks of the Santa Fe and Salt Lake at Butte street near Santa Fe avenue, is affected by the grade separation project herein considered.

The track of the Santa Fe crossing Santa Fe avenue is an industrial lead which connects with the Butte street yards for interchange purposes and also serves several industries. The Salt Lake track forms a connecting link between its main line on the east bank of the river

and the Southern Pacific Company's Alameda street line, by means of which the Salt Lake secures entry into the Fifth and Central passenger depot. This lead also has a connection with the Butte street yards, by means of which the Southern Pacific Company diverts some of its freight movement from Alameda street to the east river bank.

The interchange yards referred to, have a very important bearing on any plan of grade separation on Santa Fe avenue, for the reason that any substantial elevation or depression of the tracks across Santa Fe avenue will require a change of grade extending into this yard, materially affecting cost of construction.

Santa Fe Avenue Traffic.

Traffic checks taken by the Salt Lake and by the Automobile Club of Southern California at Butte street and Santa Fe avenue indicate an average week-day traffic on Santa Fe avenue of approximately 15,200 vehicles daily, of which about 4400 are trucks. Sunday traffic is small in comparison. Santa Fe avenue carries the largest proportion of heavy industrial trucking of any street in Los Angeles, more than 25 per cent of the vehicular traffic being trucks.

Mr. C. H. Cheney, a member of the consulting board employed by the Traffic Commission of the city and county of Los Angeles to make a general traffic survey, testified that Santa Fe avenue is ideally situated as a through artery for truck hauling and industrial traffic, being in the center of a long, narrow industrial territory. He called attention to the recommendation of the Traffic Commission of the city and county of Los Angeles, where in their report on a major traffic plan for Los Angeles, it was suggested that Santa Fe avenue be carried through to the harbor as a main trucking artery. This recommendation contemplates the future widening of Santa Fe avenue to 94 feet between curbs, and the elimination of obstructions and crossings.

A summary of data submitted by 39 industries of the Vernon-Southwestern Industries Association, in response to a questionnaire prepared by the Auto Club, emphasizes the industrial character of Santa Fe avenue traffic. Of several thousand carloads of raw material received monthly by these 39 industries, a substantial portion is brought in by truck moving over the Santa Fe avenue crossing at Butte street. Of their finished products, an even larger proportion is shipped out by truck across Butte street on Santa Fe avenue.

Santa Fe avenue is also a principal route between Los Angeles and Vernon. It appears that Slauson avenue is soon to be completely paved between Santa Fe avenue and Downey road. The latter at present carries considerable Vernon-Los Angeles traffic. The secretary of the Vernon-Southwestern Industries Association expressed the opinion that this improvement would divert traffic from Downey road

to Santa Fe avenue. He pointed out that another improvement is contemplated; namely, the improvement of Pacific boulevard from Fifty-second street to Santa Fe avenue, which he stated would also tend to divert additional traffic to Santa Fe avenue. This witness also stated that the city of Vernon is at present engaged in widening Santa Fe avenue within city limits, as a result of traffic increases on that street.

The record shows that there are now pending proceedings for the opening of Alameda street southerly from twenty-fifth street to Slau-son avenue, there connecting with the Harbor truck boulevard. Unquestionably this improvement will tend to relieve the present congestion on Santa Fe avenue as it will afford another through artery between Los Angeles and Vernon. It appears, however, that after this extension of Alameda street is completed, the large number of industrial track crossings at grade and the volume of railroad traffic along the street, together with the heavy local vehicular traffic, will tend to limit the ability of Alameda street to handle a large increase of through traffic. Mr. E. E. East, highway engineer of the Automobile Club of Southern California, expressed the opinion that vehicular traffic on Santa Fe avenue will increase in direct proportion to the automobile registration increase, and that any betterment in conditions due to the opening of Alameda street for through travel will be more than offset by this increase of automobiles.

Railroad Traffic.

A two-day check of the railroad traffic by the Auto Club indicates an average of 95 movements per day at this crossing, with a total of 885 cars. Of these movements, 61 are Salt Lake, 19 Santa Fe and 15 Southern Pacific.

The railroad traffic at the present time consists of both main line passenger and freight operation, as well as industrial, interchange and bridge switching movements. The future volume of railroad traffic is dependent, to some extent, upon the particular plan finally adopted as a solution of the Los Angeles terminal problem. All terminal plans yet proposed have assumed that all freight, with the exception of industrial switching local to Alameda street, will be diverted to the east side of the river by moving over the Butte street track of the Salt Lake, and none of the proposed terminal plans contemplate permanent passenger train operation across Santa Fe avenue at Butte street.

Mr. A. G. Mott, transportation engineer for the Commission, expressed the opinion that although the character of railroad traffic over this crossing would probably change from part passenger and part freight to all freight, the total volume would not change materially

except as it would increase with the normal growth of business of the community.

Delay.

As stated before, several traffic checks were made by interested parties. The delays to this traffic caused by the railroad operations across Santa Fe avenue at Butte street were also observed. A summary of these checks indicates the magnitude of the traffic and the amount of the traffic at the crossing in question:

	6A-6P	*Weekday 6P-6A	24 hr.	†Weekday 24 hr.	†Sunday 24 hr.
Total vehicles, including trucks-----	12,535	2,274	14,809	15,413	9,198
Trucks -----	3,585	348	3,933	4,760	789
Los Angeles Railway street cars-----	342	174	516	497	348
Los Angeles and S. L. Ry. movements-----	42	19	61	-----	-----
Los Angeles and Salt Lake Railway cars--	246	197	443	-----	-----
Southern Pacific Company movements----	3	12	15	-----	-----
Southern Pacific Company cars-----	53	255	308	-----	-----
A. T. and S. F. Ry. Company movements--	8	11	19	-----	-----
A. T. and S. F. Ry. Company cars-----	55	80	135	-----	-----
Total railway movements -----	53	42	95	-----	-----
Total railway cars -----	355	530	885	-----	-----
Total delay caused by trains (minutes)--	51	76	127	184	122

Los Angeles Railway presented evidence to the effect that 548 street cars were scheduled to pass the crossing on January 28, 1925, a normal 24-hour period, and that for a period of 18 hours on November 13, 1924, during the passage of 430 street cars, there was an aggregate delay to these cars of one hour, 30 minutes and 11 seconds.

The Salt Lake presented a graphical chart showing the interference of train operation with vehicular traffic. The exhibit shows the number of times gates were down per hour in comparison with vehicular traffic per hour, the data being averaged from a seven-day check. It appears from this exhibit that vehicular traffic averages well above 1000 vehicles per hour for the period from 7 a.m. to 6 p.m. and that it is during this period the greater portion of the railroad movements are made.

An analysis of the evidence on delay shows the occupancy of the crossing by passenger movements, as compared with freight and switching movements as follows:

	Passenger movement	Freight and switch movement	All train movement
Average number of times crossing gates lowered per day--	20.86	80.00	100.86
Average length of time gates remained lowered each time (minutes) -----	1.10	1.83	1.68
Total time crossing was occupied by trains, (minutes)---	22.9	146.4	169.3

*Auto Club traffic check taken from 6 a.m. on December 22, 1924, to 6 a.m. on December 24, 1924 (2 days).

†Salt Lake traffic check taken from 12.01 a.m. on November 30, 1924, to 12 a.m. on December 6, 1924 (7 days).

Thus it is evident that passenger train operation is responsible for but 13.5 per cent of the delay to vehicular traffic, and even though passenger train operation is withdrawn at some future date, the delay would not greatly be reduced.

The Salt Lake's trainmaster, Mr. J. K. Aimen, testified that a staff system between Santa Fe avenue and the river had been installed on their line for the very purpose of speeding train movements across Santa Fe avenue. This staff system was installed at a cost of \$1,695, and requires for operation the employment of six men; one man each eight-hour shift at each end of the staff block. Each man is paid \$4.74 per day. It thus appears that the Salt Lake has assumed an additional pay roll expense of over \$10,000 per year in order to minimize the delay to vehicular traffic at Santa Fe avenue, and, undoubtedly, the Salt Lake has in this manner very substantially reduced the traffic delays at this crossing from what they otherwise would have been.

Hazard.

It appears that there has been only two accidents in this location within the past two years, both of which were due to vehicles being driven into the side of trains already occupying the crossing. While the number of accidents occurring at a crossing is a measure, to some degree, of the hazard present, still the record of accidents for two years or even ten years can not be considered as a conclusive measure of the accident hazard. It would be possible to have a hazardous crossing which has only been opened a day and where no accidents have occurred, and as to this crossing it appears that it is but recently that the number of train movements across Santa Fe avenue has been largely increased. Many factors have a bearing on the degree of accident hazard such as train speeds, number of trains, volume of highway travel, and effectiveness of protection afforded. The railroads, in an endeavor to reduce the hazard at this crossing, have provided crossing gate protection at an annual cost of approximately \$3,500, and in addition the street car company maintains a flagman for the sole purpose of protecting its cars. It can not be reasonably concluded, however, even with this protection provided, that all of the hazard at this crossing has been eliminated.

Type of Separation.

The Commission's transportation engineer presented studies of two general methods of grade separation; namely, first, a complete elevation of the street over the railroads without disturbing the grade of the latter; and second, a partial depression of the street and a partial elevation of the railroad grade.

A preliminary estimate of cost for a viaduct carrying Santa Fe avenue over the existing grade of the railroads, based on a design similar to the approach portion of the Macy street viaduct plans filed by the city of Los Angeles in Application No. 9671, is given as \$304,320, exclusive of property damage.

A subway designed to carry the full 56-foot roadway width of Santa Fe avenue, together with two 12-foot sidewalks, under the railroads, with tracks raised 5 feet and the roadway depressed sufficient to give a 14-foot clearance is estimated to cost \$206,775, exclusive of property damage.

Another factor in favor of the subway is the expense of property damage. Both plans provide for roadway approach grades of 4 per cent; therefore, the length of approach for the viaduct, where a street elevation of 25 feet is required, must necessarily be much longer than for the subway where the street is depressed but 12 feet. More property would thus be damaged by the viaduct than by the subway.

Not only does it appear that costs of construction and property damage are substantially less for a subway than for a viaduct, but the expense of moving all traffic thereafter, will be less with a subway than with a viaduct constructed at this location. It thus appears that a subway is to be preferred to the overhead viaduct. Several modifications of subway design were presented.

Salt Lake introduced plans and estimate for a subway, the cost being estimated at \$404,100. This plan proposes a depression of 10.75 feet for Santa Fe avenue, on a 4 per cent grade with an elevation of 7.58 feet for the railroad grade, and includes a three-track abutment and a 15'6" street clearance. A storm culvert estimated at \$32,500 is included. The Auto Club submitted a plan for a subway in which abutments for four tracks are provided, and provision made for the future widening of Santa Fe avenue to 80 feet between curbs. This plan proposes that the railroad grade be raised but 5 feet, and the street depressed on a five per cent grade sufficiently to provide a 15'6" clearance, and the cost is estimated to be \$233,100, exclusive of any provision for flood water drainage. The plan of the Commission's engineering department, above referred to, provides for two-track abutments, a 14'0" overhead clearance and a 56-foot clear roadway on the Santa Fe avenue. The estimated cost of \$206,775 includes \$30,000 to provide for flood water drainage. It was estimated by the Commission's engineers that a three-track abutment could be provided for \$10,385 additional; abutments and walls could be so constructed as to provide for a future 80-foot roadway for \$7,200 additional, and a 15'6" overhead clearance provided for \$9,380 additional. All of these features, it appears, are proper provisions to be included in an adequate

subway at this point. With these items included, the engineering department's estimate will amount to \$233,740.

Mr. L. T. Jackson, assistant engineer for the Salt Lake Company, stated that a considerable portion of the cost of their plan was due to raising tracks in the Butte street yards of Southern Pacific and Pacific Electric, and to the construction of retaining walls for the railway embankment. This cost, he testified, would largely be eliminated if the railroad grade was raised but 5.0 feet as against the Salt Lake's plan of 7.58 feet.

It has previously been shown that Santa Fe avenue is primarily an industrial artery, carrying the highest proportion of trucks in comparison to total vehicular traffic of any thoroughfare in Los Angeles. Taking into account the volume and character of this traffic, it is concluded that a grade of not more than 4 per cent should be provided in depressing Santa Fe avenue. Economy of construction, together with considerations of satisfactory operating conditions for the railroads, would indicate that the tracks should have their west approaches on approximately 0.75 per cent grades, and their east approaches on approximately 0.5 per cent grades.

The continued operation of the joint Southern Pacific-Salt Lake "Santa Fe alley" spur across the Butte street tracks will result in an increased cost of construction and in an unwarranted hazard. The record shows that it is entirely practicable to operate this trackage, without the crossing, either by existing wye tracks or by a physical division of the tracks between the two companies. This crossing, therefore, should be abolished.

Economic Consideration.

An analysis of the expense that the railroads are incurring for protection and prevention of delay at this location, develops some interesting facts. Following is a tabulated statement of the direct expense in connection with the operation of the existing grade crossing:

	Annual expense
Staff system -----	\$10,000 00
Crossing gates -----	3,500 00
Human flagman (estimated) -----	1,200 00
Total -----	\$14,700 00

It will be noted that this expense will pay 6 per cent interest on an investment of \$245,000.

There are a number of indirect benefits resulting from grade separation. Speedier train operation, ability to switch unrestricted by crossing traffic, and relief from accident liability are among those benefits accruing to the railways. Street car service free from annoying delays,

and elimination of hazard of accident would benefit the street railway. Elimination of large aggregate delays of man and vehicle, together with relief from accident possibility, is an important benefit to the public.

It is apparent from testimony that the item of property damage will be considerable. Mr. T. N. Canfield, realtor and appraiser, in testifying regarding property damages, estimated that the total property damages would amount to \$217,700 of which \$154,200 is damage to land and \$63,500 damage to improvements. Mr. L. T. Jackson, assistant engineer for the Salt Lake, estimated property damage as between \$50,000 and \$60,000. It is apparent that neither estimate was made as the result of a careful survey of the situation, and the testimony can be taken as indicating only that property damage is present and amounts to a substantial item of cost. Mr. Canfield further testified that land values are higher now than they were two or three years ago, and that they will continue to increase in value. Furthermore, as the district grows industrially, the cost of the damage to improvements will increase, due to the probable erection of larger and more expensive improvements.

Property damage, therefore, will always be presenting a more serious obstacle to grade separation as time goes on. If a subway is ever to be constructed at this location, a consideration of the item of property damage can logically be used only to urge its immediate construction.

Conclusion.

After a careful consideration of all of the evidence in this case, it is concluded that a separation of grades by means of a subway at Butte street and Santa Fe avenue is justified by reason of public safety, convenience and necessity, and that the separation should be carried out as expeditiously as is reasonably possible.

It appears desirable, however, that the parties hereto be given an opportunity to agree among themselves as to plans, and as to division of cost of construction and maintenance of the subway, subject to approval and further order of this Commission, and a reasonable time should be allowed for such purpose.

The following form of order is recommended:

ORDER.

Public hearings having been held in the above entitled matter, the Commission being apprized of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that Los Angeles Railway Corporation, Los Angeles and Salt Lake Railroad Company and The Atchison, Topeka and Santa Fe Railway Company be and they are hereby directed to eliminate the grade crossing of Santa Fe avenue and of the tracks of the Los Angeles Railway Corporation with the tracks of the Los

Angeles and Salt Lake Railroad Company and of The Atchison, Topeka and Santa Fe Railway Company at or near the intersection of Butte street with said Santa Fe avenue in the city of Los Angeles, county of Los Angeles, State of California, by the construction of a subway carrying said Santa Fe avenue and the tracks of the Los Angeles Railway Corporation under the tracks of the Los Angeles and Salt Lake Railroad Company and The Atchison, Topeka and Santa Fe Railway Company, in accordance with plans and specifications to be hereafter approved by this Commission.

It is hereby further ordered, that said Los Angeles and Salt Lake Railroad Company shall prepare plans for said separation of grades, and shall submit said plans to The Atchison, Topeka and Santa Fe Railway Company, Los Angeles Railway Corporation, and city of Los Angeles for their approval or disapproval. Within one hundred twenty (120) days from the date hereof, said Los Angeles and Salt Lake Railroad Company shall submit said plans to this Commission, together with the written approval of The Atchison, Topeka and Santa Fe Railway Company, Los Angeles Railway Corporation and city of Los Angeles, or in the event that said Atchison, Topeka and Santa Fe Railway Company, Los Angeles Railway Corporation and city of Los Angeles, or any of them, shall fail to approve said plans, the reason given for such failure to approve, shall be stated in writing to the Commission. Upon receipt of said plans, together with a statement of such agreement as to division of cost as the interested parties reach, this Commission will make its further order in this matter relative to plans and division of cost of construction and maintenance among the interested parties, with or without further public hearing, as may be deemed necessary.

It is hereby further ordered, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its order if, in its judgment, the public safety, convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the making hereof.

Dated at San Francisco, California, this seventh day of April, 1925.

DECISION No. 14756.

IN THE MATTER OF THE APPLICATION OF BEVERLY GIBSON, M. B. GIBSON, C. R. SPICKARD, C. J. McFALL, GEO. H. WOODS, AND W. M. SANFORD, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF CALIFORNIA-NEVADA STAGES, FOR

PERMISSION TO SELL, AND CALIFORNIA-NEVADA STAGES, INCORPORATED, A CORPORATION, FOR PERMISSION TO PURCHASE OPERATIVE RIGHTS FOR THE TRANSPORTATION OF PASSENGERS AND EXPRESS BETWEEN SACRAMENTO, ROSEVILLE, LINCOLN, MARYSVILLE AND INTERMEDIATE POINTS; TOGETHER WITH ALL EQUIPMENT AND ALL OTHER PROPERTY OF THE CALIFORNIA-NEVADA STAGES, A COPARTNERSHIP, INCIDENT TO THE CONDUCT OF THE BUSINESS; AND CALIFORNIA-NEVADA STAGES, INCORPORATED, A CORPORATION, FOR PERMISSION TO ISSUE ONE THOUSAND ONE HUNDRED SEVENTY SHARES OF ITS CAPITAL STOCK AT NINETY DOLLARS PER SHARE IN PAYMENT THEREFOR.

Application No. 10907.

Decided April 7, 1925.

Sanborn, Rochl and DeLancey C. Smith, by Arthur B. Rochl, for Applicants.

SEAVEY, Commissioner.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Beverly Gibson, M. B. Gibson, C. R. Spickard, C. J. McFall, George H. Woods and W. M. Sanford to sell and transfer certain operative rights and properties, to which reference is hereinafter made, to California-Nevada Stages, Inc., a newly organized corporation, and authorizing California-Nevada Stages, Inc., to issue in full payment therefor \$117,000 of its common capital stock at not less than 90 per cent of the par value thereof.

The record shows that Beverly Gibson, M. B. Gibson, C. R. Spickard, C. J. McFall, George H. Woods and W. M. Sanford, copartners doing business under the firm name and style of California-Nevada Stages, are engaged in transporting passengers and express, by automobile stages, between Sacramento, Roseville, Lincoln, Marysville and intermediate points, operating pursuant to authority granted by the Commission in its Decision No. 14567, dated February 17, 1925, in Application No. 10828.

By Decision No. 14567 the Commission authorized Sam Aronson and H. E. Boswell, copartners doing business under the firm name and style of Golden Eagle-Barker Stage Line, to transfer their operative rights and properties to Beverly Gibson, and his associates, applicants herein. The operative rights, which California-Nevada Stages, Inc., now proposes to acquire, are described somewhat fully in the Commission's Decision No. 14567 and reference thereto is hereby made.

It appears that Sam Aronson and H. E. Boswell, pursuant to the order of the Commission, transferred their rights and properties to the copartnership, applicant herein, on February 27, 1925, for \$117,500, payment being made in cash. The testimony in this proceeding indicates that the members of the copartnership are of the opinion that their business can be conducted more efficiently and economically by

a corporation, rather than by a copartnership, and have therefore caused the organization of California-Nevada Stages, Inc., for the purpose of receiving the rights they heretofore acquired from Sam Aronson and H. E. Boswell and of thereafter operating thereunder.

The articles of incorporation of California-Nevada Stages, Inc., a copy of which is attached to the application, show that it was organized on or about February 17, 1925, with an authorized capital stock of \$250,000, divided into 2500 shares of the par value of \$100 each, all common. The corporation asks permission to issue \$117,000 of stock in payment for the rights and properties of the copartnership, the amount of stock being determined by the purchase price paid Sam Aronson and H. E. Boswell.

The \$117,000 is made up of the following items:

Passenger cars -----	\$63,300 00	
Tools and machinery -----	3,088 50	
Gas and oil equipment -----	2,763 00	
Furniture and fixtures -----	435 00	
Stock on hand -----	2,732 00	
Miscellaneous -----	1,035 00	
		\$73,353 50
Cash on hand -----		1,253 30
Intangibles:		
Miscellaneous (Aronson and Boswell) -----	\$9,000 00	
Incorporation fees -----	138 00	
Attorneys' fees -----	380 00	
Time and expenses of investigation -----	700 00	
Filing fees -----	100 00	
Roseville garage lease -----	2,000 00	
		12,318 00
Good will, etc. -----		30,575 20
Total -----		\$117,500 00

There are eleven passenger cars to be transferred, including three 30-passenger Whites, three 20-passenger Whites, one 18-passenger White, one 14-passenger White, one 7 passenger Cole, one 7-passenger Studebaker and one 7-passenger Buick. The value of \$63,300 for these cars, which are said to be in a first class operating condition, is an estimate of the present value thereof and is said to be somewhat less than the cost to replace such cars at the present prices. At the hearing held in this matter applicants were unable to advise the Commission of the original cost of the equipment. The values assigned for the other physical properties are said to represent actual cost thereof where records are available and estimates of cost where not available.

Coming to the intangibles, it appears that the items of \$138 for incorporation fees, \$380 for attorney's fees and \$100 for filing fees represent actual cash expenditures. The item of \$700 for time and expenses of investigations is said to consist of \$400 of actual cash expenditures by the copartners in making investigations preliminary to the purchase of the properties and of \$300 as an estimate of the

value of the time devoted to such purposes. The item of \$9,000, according to the testimony herein, represents actual cash expenditures by Sam Aronson and H. E. Boswell in obtaining and protecting the operative rights now sought to be transferred to California-Nevada Stages, Inc. The \$2,000 item for the leasehold in Roseville is an estimate only, based, apparently, on the location of the garage and the terms of the lease, which are said to be favorable, and on the probable market value and probable rental if sublet. It appears that the lease runs for a period of four years from March, 1925, with an option to the lessee to renew for five additional years, the monthly rental being \$110. A portion of the garage has been sublet for \$35 a month. On condition that at least \$2,000 so received during the life of the lease be invested in property, I believe the Commission can authorize the issue of stock on account of the lease. This in effect means the issue of stock for additional assets.

The Commission is urged to authorize the issue of stock against \$30,575.20 claimed for good will, for the reason that the stage line involved in this proceeding was started about ten years ago and that since then the business has developed to a point where it is operating on a profitable basis and where it is known by and holds the confidence of the traveling public. If such situation exists, it is not due to any act of applicant corporation, or the present owners of the properties who have only recently acquired them. It seems that we have here another instance of using phraseology to suit the occasion. Perhaps it is a coincidence that the value of good will is exactly equal to the difference between what the present owners paid for the properties and the value assigned to the tangible and other property items to which reference has been made. I am inclined to believe, however, that applicants assigned values to the tangible property and the intangible property items above referred to, and subtracted the total of such values from \$117,500 and called the difference \$30,575.20, the value of good will. They might with equal propriety have called it franchise value or going concern value. The record does not justify the Commission to authorize the issue of stock against the \$30,575.20.

I herewith submit the following form of order:

ORDER.

Beverly Gibson, M. B. Gibson, C. R. Spickard, C. J. McFall, Geo. H. Woods and W. M. Sanford, having applied to the Railroad Commission for permission to transfer operative rights and properties and California-Nevada Stages, Inc., having applied for permission to issue \$117,000 of stock, a public hearing having been held and the Commission being of the opinion that the transfer of rights and properties

should be granted as herein provided, and that the money, property or labor to be procured or paid for through the issue of \$87,000 of stock at par, is reasonably required for the purpose specified herein;

It is hereby ordered, that Beverly Gibson, M. B. Gibson, C. R. Spickard, C. J. McFall, Geo. H. Woods and W. M. Sanford, copartners doing business under the firm name of California-Nevada Stages, be and they are hereby authorized to sell and transfer the operative rights and properties to which reference is made in the foregoing opinion, to California-Nevada Stages, Inc., and the California-Nevada Stages, Inc., be and it is hereby authorized to issue \$87,000 of its common capital stock in payment for such rights and properties free and clear of all encumbrances.

The authority herein granted is subject to the following conditions:

1. Beverly Gibson, M. B. Gibson, C. R. Spickard, C. J. McFall, Geo. H. Woods and W. M. Sanford shall cancel all time schedules and tariffs now on file with the Railroad Commission, and California-Nevada Stages, Inc., shall file immediately tariffs and time schedules in its own name, or adopt as its own, the time schedules and tariffs heretofore filed by the copartners, all such tariffs and time schedules to be identical with those heretofore filed by the copartners, such cancellation and filing to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

2. The rights and privileges which are herein authorized to be transferred may not hereafter be discontinued, sold, leased, transferred, hypothecated or assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer, hypothecation or assignment has first been secured.

3. No vehicle may be operated by California-Nevada Stages, Inc., unless such vehicle is owned by the company or is leased for a specific amount on a term or trip basis, the leasing of the equipment not to include the services of a driver of authority. All employment of drivers or operators of its cars shall be made on the basis of a contract, whereby the driver or operator shall bear the relation of an employee of the transportation company.

4. California-Nevada Stages, Inc., shall keep such record of the issue and delivery of the stock herein authorized as will enable it to file with the Commission within thirty days from the date of such issuance a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to transfer rights and properties and to issue stock will become effective upon the date hereof, but will expire June 1, 1925.

It is hereby further ordered, that the application, in so far as it involves the request to issue \$30,000 of stock be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of April, 1925.

DECISION No. 14758.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF FOUR MILLION DOLLARS PRINCIPAL AMOUNT OF FIRST MORTGAGE FIVE PER CENT BONDS.

Application No. 10914.

Decided April 7, 1925.

F. M. Angellotti, for Applicant.

DECOTO, *Commissioner*.

OPINION.

The Western Pacific Railroad Company asks permission to issue and sell at not less than 90 per cent of their face value and accrued interest \$4,000,000 of its first mortgage 5 per cent bonds due March 1, 1946. The bonds are to be issued under its first mortgage executed to the First Federal Trust Company and Henry E. Cooper, trustees, dated June 26, 1916.

It is of record (Applicant's Exhibit "B") that the company expended, from 1920 to 1924, both years inclusive, for additions and betterments to its railroad and other properties owned and used or useful in the proper performance of service to the public as a common carrier, the sum of \$3,510,605.64 and that such sum was not obtained through the issue of stock or bonds. In its Exhibit "C" applicant reports additional actual or estimated expenditures of \$870,377.82.

Applicant asks permission to use the proceeds from the sale of the \$4,000,000 of bonds to reimburse its treasury because of the expenditure of \$3,510,605.64 for the purposes set forth in its Exhibit "B" and to pay part of the construction costs reported in its Exhibit "C."

I herewith submit the following form of order:

ORDER.

The Western Pacific Railroad Company, having applied to the Railroad Commission for permission to issue and sell \$4,000,000 of its first mortgage 5 per cent bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such bonds, is

reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The Western Pacific Railroad Company be and it is hereby authorized to issue on or before October 1, 1925, not exceeding \$4,000,000 face value of its first mortgage 5 per cent bonds under its first mortgage to the First Federal Trust Company and Henry E. Cooper, trustees, dated June 26, 1916, such bonds to contain the same terms as the \$20,000,000 of its first mortgage 5 per cent bonds heretofore issued.

The authority herein granted is subject to the following conditions:

1. The bonds herein authorized to be issued shall be sold by The Western Pacific Railroad Company for not less than 90 per cent of their face value and accrued interest.

2. Of the proceeds realized from the sale of the bonds \$3,510,605.64 may be used by applicant to reimburse its treasury because of income expended for the additions, betterments and properties described in Exhibit "B."

3. The remainder of the proceeds, other than accrued interest, may be expended to pay in part the cost of the additions, betterments and properties described in Exhibit "C." The accrued interest may be used for general corporate purposes.

4. The Western Pacific Railroad Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$2,500.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of April, 1925.

DECISION No. 14759.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY FOR PERMISSION TO DISCONTINUE AND ABANDON MOTOR COACH SERVICE IN CHULA VISTA AND NATIONAL CITY.

Application No. 9985.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO DISCONTINUE SERV-

ICE AND SUSPEND OPERATION BETWEEN TWENTY-FOURTH STREET, NATIONAL CITY, AND THIRD STREET, CHULA VISTA, CALIFORNIA.

Application No. 10441.

Decided April 7, 1925.

R. G. Dilworth and H. E. Brunelle, for Applicant.

Ray M. Harris, City Attorney, for the City of National City, Protestant.

Sloan and Sloan, by *W. A. Sloan*, and *F. B. Andrews*, City Attorney, for City of Chula Vista, Protestant.

Shreve, Dorn and Shreve, by *A. L. Dorn*, for certain residents along the route of the motor coach line, Protestants in Application No. 9985.

BY THE COMMISSION.

OPINION.

In Application No. 9985, San Diego Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the discontinuance and abandonment of motor coach service between Eighth street and National avenue, National City, and Third avenue and Third street, Chula Vista.

In Application No. 10441, San Diego Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the discontinuance of service and suspension of operation over a line of street railway, operated by agreement over tracks of the San Diego and Southeastern Railway Company (predecessor in interest to San Diego and Arizona Railway Company) between Eighth avenue and Twenty-fourth street, National City, and Third street, Chula Vista.

Public hearings on the above applications were conducted by Examiner Handford at San Diego, at which time the matters were consolidated for the purpose of receiving evidence, the matters were duly submitted upon the filing of briefs by interested counsel, and are now ready for decision.

The motor coach service herein proposed to be abandoned is that authorized by this Commission in its Decision No. 11173 on Application No. 8170, as decided October 27, 1922. The route of the operation was over the following highways:

Commencing at Eighth street and National avenue, in the city of National City, on Eighth street to Highland avenue; thence on Highland avenue to "E" street in Chula Vista; thence on "E" street to Third avenue; thence on Third avenue to its intersection with Third street, Chula Vista.

Applicant alleges that the operation of the motor coach service is not self-supporting; that it has been operated at a deficit at all times since its inauguration; and that due to the slow development of the territory through which the line is operated that there is but slight probability of the traffic increasing to an extent which will overcome the operating deficit.

In support of its allegations applicant presented several exhibits showing in detail the traffic handled and the revenue derived therefrom, together with detailed statements of expense incurred. From these exhibits it appears that for the ten months' period ending October 31, 1924, the total revenue from the motor coach line proposed to be abandoned amounted to \$7,148.42 and the operating expense during the same period amounted to \$14,673.05 or a net deficit of \$7,524.63, the deficit being in excess of the gross revenue.

Eliminating all expenses excepting the out-of-pocket costs for the operation of the line, such as general and supervisory expenses as well as rental for the equipment used, the operating expenses would amount to \$10,349.19 or a deficit of \$3,200.77 for the ten months' period. Nothing has been claimed for an interest return on the investment in equipment or is such considered in the above analysis.

It is apparent that the traffic handled by applicant in the operation of its motor coach service in Chula Vista and National City does not produce a sufficient revenue to meet the direct operating costs, from which are excluded all items of supervision, general office expense, law expenses, purchasing and store expense, auditing, stationery and printing, miscellaneous expense, depreciation, or any allowance for interest on the investment.

There is no evidence herein which indicates that future traffic conditions will improve to an extent justifying the continued operation of the motor coach line, and its continued maintenance constitutes an undue and unwarranted burden on other patrons of the applicant's transportation system. We are, therefore, of the opinion and hereby find as a fact that the continued maintenance and operation of a motor coach system by applicant between National City and Chula Vista is not justified in that the revenue received from such operation is not sufficient to meet the bare operating costs from which have been excluded all items of supervisory expense, depreciation or any return on the investment in equipment devoted to the public service.

The street railway service, herein proposed to be discontinued between Eighth avenue and Twenty-fourth street, National City, and Third street, Chula Vista, is the southerly end of a through line operated by applicant from the union station at San Diego via Logan Heights and National City to its terminus at Third street, Chula Vista.

The service at Chula Vista was originally established by the applicant who leased from the San Diego and Southeastern Railway Company a trackage right from Twenty-fourth street, National City, to Third street, Chula Vista, at a rental of five cents per car mile, the lessee to maintain the overhead construction. Through car service to San Diego was later inaugurated by the applicant and it is now the desire of the applicant to discontinue the service over the portion of

leased track, it being alleged that such operation is unprofitable. The San Diego and Arizona Railway Company is now the owner of the leased track, having by purchase acquired in 1917 the property of the San Diego and Southeastern Railway Company. The present operation is not covered by any franchise in the city of National City or the city of Chula Vista. Many exhibits were filed showing the revenue and expenses, and also traffic counts and statistics. Two of these exhibits are material to the issue herein presented and abstracts therefrom show the following:

From Applicant's Exhibit No. 31.

Route No. 12, South of National City, nine months ending September 30, 1924:

Revenue—

Revenue from transportation	\$4,971 20
Revenue from other railway operations.....	127 28
Nonoperating income	636 40
Total revenue	\$5,734 88

Expenses—

Way and structures	\$57 60
Equipment	1,650 47
Power	1,198 33
Wages—trainmen	5,480 63
Conducting transportation	1,600 16
Traffic	153 44
General and miscellaneous	4,074 38
Depreciation	1,594 68
Taxes	347 98
Total expenses	16,157 67
Deficit	\$10,422 79

From Protestants' Exhibit No. 1.

Route No. 12, Logan Heights, National City and Chula Vista Line, nine months ending September 30, 1924:

Revenue—

Revenue from transportation	\$143,550 13
Revenue from other railway operations.....	1,036 32
Nonoperating income	5,499 36
Total revenue	\$150,085 81

Expenses—

Way and structures	\$3,176 73
Equipment	13,054 36
Power	16,661 94
Wages—trainmen	24,640 93
Conducting transportation	13,532 81
Traffic	1,726 90
General and miscellaneous	26,218 99
Depreciation	30,722 42
Taxes	8,392 22
Total expenses	138,127 80
Net revenue	\$11,958 01

From the above comparative statements it would appear that the loss from operation of the portion of the line proposed to be abandoned is 87.16 per cent of the net revenue received from the operation of the entire through line.

The allocation of expense on the portion of the line proposed to be abandoned has been made on a car mile basis and the allocation of revenue has been made on a basis of crediting to the line all the revenue accruing from five and ten cent fares; a proportion, on a mileage pro-rata, of all single and round trip tickets; and an allowance for weekly passes based on a division of the amount received from the sale of the \$1.50 weekly pass on a mileage prorata.

It is the contention of protestants that the method of computing the revenue as regards the portion of the line herein proposed to be abandoned is not a proper allocation and is unfair to the community served in that it is contended that passengers now using the line between San Diego and points between Twenty-fourth street, National City, and Third street, Chula Vista, would no longer use same in the event of its discontinuance and that the revenue of the applicant would therefore be reduced, not only on the portion of the line for which abandonment is sought, but also on the remaining portion of line No. 12, of which through line the National City-Chula Vista service forms a part. Protestants also protest the method of allocating revenue accruing from the sale of weekly passes on the same basis as objected to regarding one-way and round trip tickets. To test the result of this contention a reconstruction of the "Revenue from transportation" for the nine months' period ending September 30, 1924, on the basis of actual 5 and 10 cent fares, and allowing a full 10 cent fare for all ticket and weekly pass riders shows the following:

	No.	Amount
Five-cent cash fares -----	17,536	\$876 80
Ten-cent cash fares -----	11,508	1,150 80
Other cash fares -----	6,028	602 80
Revenue tickets -----	28,770	2,877 00
Weekly pass -----	31,784	3,178 40
		<hr/> \$8,685 80

With the allowance shown above the gross revenue for the nine months period would be increased to \$9,449.48 and the operating expense of \$16,157.67 would produce a deficit of \$6,708.19.

If all items except the bare operating costs were to be deducted from the above arbitrary set-up by eliminating the items of "Traffic expense," "General and miscellaneous," and "Depreciation," the operating expense would be the sum of \$10,335.17 which, in view of the assumed revenue of \$9,449.48, would result in a deficit of \$885.69 for the nine months period or of \$1,180.92 for a yearly period.

The granting of the application for abandonment of the rail service is protested by the city of Chula Vista on the basis that the development of the community will be retarded if the suspension of service is authorized; that no other adequate service exists; and that the development of the territory would be stimulated if a reconstruction and relocation of the line between National City and Chula Vista were to be made by applicant, thereby shortening the distance and increasing the frequency of the service.

The Commission has given careful consideration to the evidence and exhibits as filed herein.

The service heretofore installed following the flood period of 1916 and over the leased tracks of the San Diego and Arizona Railway Company has not attracted a sufficient volume of patronage to justify its operation and this condition has developed notwithstanding the operation of through cars to the business district of San Diego, at which time the frequency of the schedule was materially increased. We have considered the traffic possibilities and find nothing in the record that justifies a conclusion that the continued operation of the rail line between National City and Third street, Chula Vista, is warranted by the volume of business requiring this form of transportation, nor is there any evidence that the volume of traffic will increase to an extent that will return a revenue sufficient to meet the bare costs of operation. Unless these conditions are present, the patrons of the applicant's general system should not be burdened with the necessity of meeting deficits accruing by reason of a portion of a line being unable to meet its proper operating and maintenance costs, depreciation and a reasonable interest return on the investment in equipment and facilities dedicated to the public service, and in this instance and on the most favorable basis of computation, we are of the opinion and hereby find as a fact that the portion of the line herein proposed to be abandoned has failed to return in revenue the out-of-pocket expense necessary for its operation, and that there is no present or immediate prospect that additional traffic will develop in future.

ORDER.

Public hearings having been held in the above entitled proceedings, the matters having been consolidated for the receipt of evidence and decision thereon, and having been duly submitted upon the filing of briefs by counsel for applicant and protestant, the Commission being now fully advised and basing its order on the findings of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that applicant, San Diego Electric Railway Company, a corporation, be and the same hereby is authorized to discontinue the operation of a motor coach line as a common carrier of

passengers between National City and Chula Vista, all in San Diego County, and over the following described route:

Commencing at Eighth street and National avenue in the city of National City on Eighth street to Highland avenue; thence on Highland avenue to "E" street in Chula Vista; thence on "E" street to Third avenue; thence on Third avenue to its intersection with Third street, Chula Vista.

It is hereby further ordered, that applicant, San Diego Electric Railway Company, a corporation, be and the same hereby is authorized to discontinue the operation of that certain street car service heretofore operated by trackage rights over the tracks owned by the San Diego and Arizona Railway Company between Twenty-fourth street, National City, and Third street, Chula Vista.

This order shall not be effective until applicant, San Diego Electric Railway Company, a corporation, will have given public notice of the discontinuance of service herein authorized by posting notices in all cars and motor coaches operated on the lines hereinabove referred to, such notices stating the date upon which the discontinuance of service will be effective, to be posted at least ten (10) days prior to such effective date; and a copy of said notice to be filed with this Commission.

For all purposes, other than hereinabove referred to, the effective date of this order is twenty (20) days from the date hereof.

Dated at San Francisco, California, this seventh day of April, 1925.

DECISION No. 14763.

IN THE MATTER OF THE APPLICATION OF THE CITY OF GLENDALE,
A MUNICIPAL CORPORATION, FOR PERMISSION TO INSTALL A
GRADE CROSSING OVER THE TRACKS OF THE PACIFIC ELECTRIC
RAILWAY COMPANY AT PALMER AVENUE.

Application No. 10736.

Decided April 10, 1925.

Ray L. Morrow, City Attorney, for Applicant.

Frank Karr, for Pacific Electric Railway Company.

John R. Berryman, Jr., for Los Angeles County Grade Crossing Committee.

SHORE, Commissioner.

OPINION.

In the above entitled application the city of Glendale seeks permission to construct Palmer avenue at grade across Pacific Electric Railway Company's tracks adjacent to Brand boulevard, in the city of Glendale, Los Angeles County, California.

A public hearing was held in this matter in Glendale, March 3, 1925.

Palmer avenue, an east and west street of Glendale, situated in the

southern portion of the city, extends from San Fernando road to Sycamore Canyon road, a distance of about 7000 feet. To the west of the proposed crossing Palmer avenue is now 50 feet in width with a 30-foot driveway, while to the east it is 60 feet in width, with a 40-foot driveway. At present this highway is improved with an oil macadam pavement, and carries only a moderate amount of traffic, the greater portion of which is local. The evidence shows that this is the most southerly street in the city of Glendale which extends from San Fernando road to Sycamore Canyon road, and that the city proposes to pave the street throughout its entire length, in the near future, with a 40-foot driveway, and make of it a major highway between San Fernando road and Sycamore Canyon road.

The proposed crossing is over Pacific Electric Railway Company's so-called "Glendale-Burbank" line, operated on a 40-foot private right of way, located between two portions of Brand boulevard, each of which are forty feet wide. Brand boulevard is the principal north and south business street of the city of Glendale, and is a continuation of what is known as Glendale boulevard in the city of Los Angeles and is one of the principal highways between these two cities. At Palmer avenue both portions of Brand boulevard are paved with a 27-foot roadway and carry a large volume of vehicular traffic. At present the traffic which enters Brand boulevard from Palmer avenue, with the object of traveling in a direction counter to the normal flow of traffic on either of the two roadways of Brand boulevard, is either put to the disadvantage of traveling out of its way to the next crossing, or else it must travel against the normal flow of traffic to the next crossing over the railroad. This disadvantage, however, occurs at all the other cross streets which are not constructed across the railroad at Brand boulevard. The amount of the public inconvenience at such street intersections is dependent principally upon the volume of traffic on the two portions of Brand boulevard and upon the distance to the nearest crossings. The public inconvenience experienced at Palmer avenue does not appear to exceed to any extent that at a number of other streets which do not cross the railroad.

Pacific Electric Railway Company's so-called "Glendale-Burbank" line, is a double-track interurban railroad over which there are 145 passenger and 14 freight and express trains normally operated per day. These trains travel at fairly high rates of speed in the vicinity of Palmer avenue. The view from Palmer avenue of the track adjacent to the proposed crossing is obstructed by buildings and trees on both sides of Brand boulevard. The nearest public grade crossings over this railroad to the one proposed herein are to the north at Park avenue, a distance of about 450 feet, and to the south at Cypress avenue, a distance of about 880 feet.

Pacific Electric Railway Company presented an estimate which showed the cost of constructing a 60-foot crossing at Palmer avenue to be \$2,660; this total includes the cost of an automatic flagman. This estimate was not contested and no other estimates were introduced.

After due consideration of all the evidence in this case, it appears that the accommodation afforded by the proposed crossing to the traffic on Palmer avenue at this time would not in itself present sufficient public convenience and necessity to justify the granting of this application. However, if and when Palmer avenue is paved with a 40-foot driveway between San Fernando road and Sycamore Canyon road, thus making it a relatively important connecting highway, public convenience and necessity will at that time require that a public crossing be established over the Pacific Electric Railway Company's tracks, as proposed herein. If, on the other hand, this improvement is not carried out, this application should be denied.

The following form of order is recommended:

ORDER.

The city council of Glendale having filed the above entitled application with the Railroad Commission, for permission to construct Palmer avenue at grade across Pacific Electric Railway Company's tracks adjacent to Brand boulevard, within the said city, a public hearing having been held, the Commission being apprized of the facts, the matter having been duly submitted and now being ready for decision:

It is hereby found as a fact that if and when Palmer avenue is paved with a roadway not less than 40 feet in width between San Fernando road and Sycamore Canyon road, public convenience and necessity will require that a crossing be established over Pacific Electric Railway Company's tracks at Palmer avenue, and not otherwise; therefore,

It is hereby ordered, that permission and authority be and they are hereby granted to the city council of the city of Glendale, Los Angeles County, California, to construct Palmer avenue at grade across the tracks of Pacific Electric Railway Company adjacent to Brand boulevard, as shown in exhibits A and B attached to the application, said crossing to be constructed subject to the following conditions, namely:

1. The authority herein granted shall be effective only upon the paving of Palmer avenue with a roadway not less than 40 feet in width throughout its entire length, between San Fernando road and Sycamore Canyon road.
2. The entire expense of constructing the crossing shall be borne by applicant. The cost of its maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of

that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Pacific Electric Railway Company.

3. The crossing shall be constructed of a width not less than forty (40) feet and at an angle of ninety (90) degrees to the railroad and with grades of approach not greater than four (4) per cent; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

4. An automatic flagman shall be installed for the protection of said crossing at the sole expense of applicant, said automatic flagman to be of a type and installed in accordance with plans or data approved by the Commission. The maintenance of said flagman shall be borne by Pacific Electric Railway Company.

5. Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

6. If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

7. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The above opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14764.

IN THE MATTER OF THE APPLICATION OF THE CITY OF GLENDALE,
A MUNICIPAL CORPORATION, FOR PERMISSION TO INSTALL A
GRADE CROSSING OVER TRACKS OF THE SOUTHERN PACIFIC
RAILROAD COMPANY AT BROADWAY.

Application No. 10737.

Decided April 10, 1925.

Ray L. Morrow, City Attorney, for Applicant.

Frank Karr, for Southern Pacific Company.

John R. Berryman, Jr., for Los Angeles County Grade Crossing Committee.

C. Gordon Whitnall, for Los Angeles City Planning Commission.

SHORE, Commissioner.

OPINION.

In the above entitled application, the city of Glendale seeks permission to construct Broadway at grade across Southern Pacific Company's main line tracks through the city of Glendale, Los Angeles County, California.

A public hearing was held in this matter at Glendale on March 3, 1925.

Broadway is an important east and west street of the city of Glendale, extending from San Fernando road on the west to Wilson avenue on the east, a distance of about $2\frac{1}{2}$ miles. San Fernando road, at the western terminus of Broadway, is an important highway artery running parallel to and on the easterly side of the 100-foot right of way of the Southern Pacific Company's Los Angeles-San Francisco double track main line. There is also a siding along the main line in this vicinity and the railroad company plans to increase the number of tracks to a total of six, of which four will be main line tracks and two will be drill tracks. The drill tracks will be outside the four main line tracks in order that spur tracks may be easily run from them to serve industries on each side of the right of way. The westerly line of this right of way in the vicinity of the proposed crossing marks the boundary between the cities of Glendale and Los Angeles. Glendale is on the easterly side of this line and therefore includes the railroad property.

The proposed crossing, if constructed, will permit of extending Broadway to the west of San Fernando road through that portion of the city of Los Angeles between the railroad and the Los Angeles River, a distance of about 2000 feet. The district between the railroad and the Los Angeles River in the vicinity of Broadway is favorably situated for industrial development and is classed as industrial property. At present, however, there are only a few industries located on this property, although a number of others are desirous of locating there as soon as highways are constructed through this property with access to San Fernando road. The existing industries receive railroad service by spur connections from Southern Pacific Company's main line and have private vehicular crossings over the railroad. There are no public crossings over the railroad in the vicinity of the one proposed herein. The railroad company has recently constructed a system of spur tracks through the undeveloped portion of this industrial property to afford service to prospective industries. The evidence shows that the property owners and the city of Los Angeles are planning a system of highways through the district between the railroad and the river. It is contemplated to build a major highway along the easterly bank of the Los Angeles River, which will collect and distribute traffic to the various east and west streets to be con-

structed in the tract, and which will in addition relieve through traffic conditions on San Fernando road.

A private farm crossing was established over the railroad, at the location referred to in this application, over thirty years ago, to serve two ranches. The vehicular movement over this farm crossing has materially increased during the past two years, to accommodate the traffic engaged in the development of the property west of the railroad and to and from a construction company's headquarters immediately west of the proposed crossing. An outfall sewer is now being constructed along the east bank of the river and materials for this work are being hauled over this so-called private crossing.

The records show that there are now 24 passenger train, 28 freight train and additional extra train movements normally operated each day over the main tracks and crossing involved herein. Many of these trains travel at high rates of speed in the vicinity of Broadway.

Although the record does not definitely indicate the volume of highway traffic that may be expected to move over this crossing, it is clear that this traffic will be primarily industrial in character. This means that it would probably be composed of a relatively large proportion of trucks and that most of this traffic would move between the hours of 7 a.m. and 6 p.m. The view at this crossing is somewhat restricted and this fact, when considered with the fact that it is immediately adjacent to an unusually heavy traveled highway (San Fernando boulevard), leads to the conclusion that this crossing presents a more than usual hazard. To the extent that the traffic moving over this crossing would consist of heavy trucks, the hazard not only extends to the vehicular traffic, but also to the railroad traffic, due to the liability of derailment to a train in the event that a high speed passenger train should collide with a heavy truck.

It appears that there is a public necessity for a crossing over the railroad in the vicinity of the one proposed herein, to afford access to the industrial property west of the railroad; and it further appears that one crossing, if located at a favorable place to meet public convenience, would satisfy the present public needs.

The evidence shows that Colorado boulevard, which runs approximately parallel to Broadway and is situated about 1200 feet south thereof, is now a very important east and west highway artery through the city of Glendale, and extends east thereof through Eagle Rock and Pasadena. It appears that the city of Los Angeles, in accordance with the road program now under consideration, plans to extend Colorado boulevard west of the railroad. This extension will involve constructing a bridge over the river and continuing the road to the west thereof to a connection with other important highways. It has

been indicated that the city of Glendale plans to file an application with this Commission in the near future, in which permission will be sought to construct Colorado boulevard across Southern Pacific Company's tracks.

From the evidence it would appear that the logical location for a permanent public crossing over or under the railroad in the vicinity of the crossing proposed herein is at Colorado boulevard and that, with such a crossing, reasonably adequate highway facilities could be afforded the industrial area west of the railroad, provided north and south highways were constructed between the railroad and the river on either side of Colorado boulevard. To meet the present public needs, however, there appears to be a public necessity for a crossing of the railroad at or near the location applied for herein to accommodate the local traffic, which now passes over the railroad at this location, pending the time a permanent crossing is installed to serve this district. With a public crossing at or near Colorado boulevard, the traffic now crossing the railroad at Broadway could reasonably be expected to use the Colorado boulevard crossing and the Broadway crossing should then be abandoned and effectively closed to traffic.

It may be that public convenience and necessity will require the construction of a crossing at Colorado boulevard within two years; therefore the proposed crossing at Broadway, if constructed, should be considered a temporary crossing and should only be allowed to remain until such time as the public crossing at or near Colorado boulevard is built. In the mean time, public convenience and necessity appear to justify the construction of such a temporary crossing at Broadway; but it should not be authorized except under conditions which will provide for adequate protection. As has been pointed out, this particular crossing combines a number of unusually hazardous conditions, possibly the most important of which is that due to the proximity of San Fernando boulevard with its large volume of relatively high speed vehicular traffic, a condition which tends to divert the attention of vehicle drivers, attempting to cross the railroad, from observing the approach of trains.

In view of these unusually hazardous conditions, the least protection that should be provided should be the maintenance of a uniformed traffic officer at the crossing between the hours of 7 a.m. and 6 p.m. daily, except Sundays, and the installation of an automatic flagman for the protection of the crossing during those hours of relatively light traffic when the crossing would not otherwise be protected. The cost of maintaining the uniformed traffic officer should be divided equally between the applicant and the railroad.

The following form of order is recommended:

ORDER.

The city council of Glendale having filed the above entitled application with the Railroad Commission for permission to construct Broadway at grade across Southern Pacific Company's tracks within the said city, a public hearing having been held, the Commission being apprised of the facts, the matter having been duly submitted and now being ready for decision:

It is hereby found as a fact that public convenience and necessity require that a public crossing be constructed over or under Southern Pacific Company's lines at or in the vicinity of the crossing applied for herein, and that one crossing, if located at a convenient place, will meet the public needs for a highway connection to the industrial property located between the railroad and the Los Angeles River, in the vicinity of Broadway, and that the most logical location for such a permanent public crossing is at or near Colorado boulevard. In order to meet the existing local needs, the crossing applied for herein should be allowed, provided, however, it be abandoned when a permanent public crossing is constructed at or near Colorado boulevard which, it is planned, will be effected in not to exceed two years; therefore,

It is hereby ordered, that permission and authority be and it is hereby granted to the city council of the city of Glendale, Los Angeles County, California, to construct Broadway at grade across the tracks of Southern Pacific Company at the location shown by the map marked Exhibit "A," attached to the application; said crossing to be constructed subject to the following conditions, namely:

(1) The entire expense of constructing the crossing shall be borne by applicant. The cost of its maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of about seventy (70) degrees to the railroad, and with grades of approach not greater than five (5) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Said crossing shall be protected by a uniformed traffic officer between the hours of 7 a.m. and 6 p.m. daily, except Sundays. The cost of maintaining said uniformed traffic officer shall be borne 50 per cent by applicant and 50 per cent by Southern Pacific Company.

(4) An automatic flagman shall be installed for the protection of said crossing at the sole expense of applicant, said flagman to be of a type and installed in accordance with plans or data approved by the

Railroad Commission. At the expiration of the authorization of said crossing granted herein, Southern Pacific Company shall refund to applicant the salvage value of the materials salvageable when said crossing is abandoned. The maintenance of said flagman shall be borne by Southern Pacific Company.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(6) If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

It is hereby further ordered, that if and when a public crossing is constructed over or under the said Southern Pacific tracks at or near Colorado boulevard, which it is estimated will be effected in not to exceed two years, the grade crossing herein authorized at Broadway shall be abandoned and effectively closed to traffic.

It is hereby further ordered, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14765.

IN THE MATTER OF THE APPLICATION OF CITY OF GLENDALE, A MUNICIPAL CORPORATION, FOR PERMISSION TO INSTALL A GRADE CROSSING OVER THE TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY AT GARDENA AVENUE.

Application No. 10778.

Decided April 10, 1925.

Roy L. Morrow, City Attorney, for Applicant.

Frank Karr, for Pacific Electric Railway Company.

John R. Berryman, Jr., for Los Angeles County Grade Crossing Committee.

SHORE, Commissioner.

OPINION.

In the above entitled application the city of Glendale seeks permission to construct Gardena avenue at grade across Pacific Electric Rail-

way Company's Glendale-Burbank line adjacent to Brand boulevard in the city of Glendale, Los Angeles County, California.

A public hearing was held in this matter at Glendale March 3, 1925.

It was stipulated by the interested parties that the record in Application No. 8384 be considered in evidence in this proceeding in so far as relevant.

On November 4, 1922, the city of Glendale filed its Application No. 8384 with this Commission, asking authorization for a grade crossing over Pacific Electric Railway Company's track at the same location as applied for in the application now under consideration. The Commission made its order (Decision No. 11526) in this matter on January 18, 1923, wherein the city of Glendale was granted authority to construct Gardena avenue at grade across Pacific Electric Railway Company's tracks, under certain conditions, one of which (condition 4) provided:

The authorization herein granted for the installation of said crossing shall lapse and become void two years from the date of this order, whereupon said crossing shall be abolished unless further time is granted by subsequent order.

At the expiration of two years, in accordance with the above provision, Pacific Electric Railway Company abolished the said crossing by excavating adjacent to the tracks and erecting posts along each side of its right of way across the strip that had been used as a public crossing. At the hearing in the present proceeding, counsel for the Pacific Electric Railway stated that the crossing had been abolished without the knowledge or authority of the management of the company, through an unauthorized order from one of the company's clerks. Counsel explained that although the act of abolishing the crossing was in accordance with the Commission's order, the management of the railway would, had it known the conditions, have given the city of Glendale sufficient advance notice of its intention of abolishing the crossing to permit the latter to apply to the Commission for an extension of time.

Gardena avenue runs approximately parallel to and is located between San Fernando road and Southern Pacific Company's main line tracks through Glendale, being about 800 feet southwest of San Fernando road and 300 feet northeast of the railroad. To the northwest of the proposed crossing Gardena avenue is a 70-foot highway and extends to Los Feliz boulevard, a distance of about one-half mile, and to the southeast it is a 60-foot highway and extends to Oxford, a distance of about one-quarter of a mile. At present Gardena avenue is improved with oil macadam.

At this crossing Pacific Electric Railway Company has a 60-foot private right of way, upon which is located a double-track interurban railroad known as the "Glendale-Burbank line." There are 145

passenger and 14 freight and express trains normally operated over this line daily, most of which travel at fairly high rates of speed in the vicinity of Gardena avenue.

Brand boulevard, one of the main highways between Los Angeles and Glendale, is divided into two roadways located on each side of the Pacific Electric's right of way. Each portion of Brand boulevard is 40 feet in width, and has a paved roadway 30 feet wide. In the city of Los Angeles, southwest of the railroad, Brand boulevard is known as Glendale boulevard. The nearest public crossing over Pacific Electric Railway to the southwest of Gardena avenue is at Atwater avenue, a distance of about three-tenths of a mile. Continuing southwest of Atwater, the next public crossing is at Glenhurst avenue, a distance of about three-tenths of a mile. Both of these crossings are in the city of Los Angeles.

The evidence shows that the crossing applied for will, to a certain extent, relieve congestion at the intersection of Brand boulevard and San Fernando road, in that it will afford a passage over the railroad to such traffic on Brand boulevard from Los Angeles as desires to travel to the westerly portion of Glendale and thus avoid the San Fernando crossing which at times is congested. It was also shown that the Gardena avenue crossing would shorten the distance for certain traffic to and from Southern Pacific Company's new passenger station in Glendale, which is located to the northwest of the proposed crossing, and that it would permit certain traffic to adjust itself more readily to right-hand travel on Brand boulevard. The public convenience and necessity served by this crossing, however, does not appear to be great at this time.

When the Commission made its Decision No. 11526, granting the Gardena crossing for a period of two years, the only crossing over this line of the Pacific Electric northeast of the Los Angeles River, was the Atwater avenue crossing referred to above. This crossing has steep grades of approach, and at that time the easterly branch of Brand boulevard was not paved north of this crossing; therefore only a small percentage of the vehicular traffic toward Glendale crossed the railroad at that point; the greater portion of the traffic continuing along the left-hand side of Glendale boulevard to San Fernando road. One of the principal reasons for the granting of the Gardena crossing for a period of two years was to permit traffic on Brand boulevard to adjust itself to right-hand movements and thus to relieve the congestion at the intersection of Brand boulevard and San Fernando road, pending the improvement of the easterly half of Glendale boulevard and the construction of a crossing which would be attractive to vehicular traffic, under the railroad north of the Los Angeles River.

Subsequently there has been constructed the crossing at Glenhurst avenue. This is a 60-foot crossing, with a roadway 40 feet in width and with light grades of approach. There is a sign painted on the pavement directing north-bound traffic to cross the railroad at this point, and it appears that the greater portion of the traffic complies with this regulation, and thence travels along the right-hand branch of Glendale boulevard, which has recently been paved north of Glenhurst avenue.

Pacific Electric Railway Company's Exhibit No. 1 shows the estimated cost of constructing a public crossing at Gardena avenue, as proposed herein, to be \$2,085. This estimate contemplates using the automatic flagman now installed at the crossing. This estimate was not contested and no others were presented.

After reviewing all the evidence in this proceeding, it appears that public convenience and necessity do not at this time justify the granting of this application. While it was shown that the proposed crossing would serve a convenience to certain traffic, this convenience does not appear to offset the public hazard and the effect of slowing up the interurban service to Glendale and Burbank that would result from the construction of the proposed crossing. This application should be denied.

The following form of order is recommended:

ORDER.

The city of Glendale having made application to this Commission for permission to construct Gardena avenue at grade across Pacific Electric Railway Company's tracks adjacent to Brand boulevard in the city of Glendale, Los Angeles County, California, a public hearing herein having been held, the matter having been duly submitted and now being ready for decision, for the reasons stated in the foregoing opinion;

It is hereby ordered, that the above entitled application be and the same hereby is denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14766.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE BONDS IN THE FACE VALUE OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS.

Application No. 4352.

Decided April 10, 1925.

Chickering and Gregory, by *Allen L. Chickering*, for Applicant.

SQUIRES, Commissioner.

THIRD SUPPLEMENTAL OPINION.

In its third supplemental petition filed in the above entitled matter on March 17, 1925, Coast Valleys Gas and Electric Company asks the Railroad Commission to vacate and set aside that certain portion of the Commission's order in Decision No. 6324, dated May 12, 1919, reading as follows:

3. By issuing any of the bonds herein authorized, Coast Valleys Gas and Electric Company agrees that it will not disburse any of its surplus earnings in the form of dividends until such time as its alleged liability under the guaranty executed by Monterey County Gas and Electric Company shall have been determined and discharged, it being understood that all surplus earnings will in the meantime be invested in property, unless otherwise authorized by the Railroad Commission.

At the hearing held on February 26, 1919, W. F. Williamson, Myrick and Deering and James Walter Scott appeared for certain bondholders of Monterey and Pacific Grove Railway Company and asked the Commission not to authorize the Coast Valleys Gas and Electric Company to issue \$125,000 of bonds. The Commission in its decision to which reference has been made, authorized the company to issue the \$125,000 of bonds subject, among others, to the proviso mentioned above. Following the filing of the supplemental petition now before the Commission, the Commission notified Myrick and Deering and W. F. Williamson that such petition had been filed and that a hearing would be held thereon before Commissioner Squires on April 1, 1925. The company was also directed to publish a notice of the hearing, which notice was published in the *San Francisco Chronicle* in its issue of March 28, 1925. At the hearing no one appeared to protest against the granting of the company's supplemental petition. It is of record that the bondholders of the Monterey and Pacific Grove Railway Company have never instituted any action against Coast Valleys Gas and Electric Company for the purpose of holding that company liable for the payment of bonds issued by the Monterey and Pacific Grove Railway Company. Nearly six years have elapsed since the Commission entered its original order in the above entitled matter and more than ten years since the question of the payment of the bonds (Application No. 1418) of the Monterey and Pacific Grove Railway Company by Coast Valleys Gas and Electric Company was first raised before this Commission. It seems that this Commission should not for an indefinite period of time continue in effect the provision of the order in Decision No. 6324, quoted above. I believe that it is proper under

the facts before the Commission that applicant's request be **granted**, and therefore submit the following form of supplemental order:

THIRD SUPPLEMENTAL ORDER.

Coast Valleys Gas and Electric Company having asked the Commission to modify its order in Decision No. 6324, dated May 12, 1919, a public hearing having been held, and the Commission being of the opinion that such order should be modified as requested by applicant in its supplemental petition filed in the above entitled matter on March 17, 1925; therefore

It is hereby ordered, that the Commission's order in Decision No. 6324, dated May 12, 1919, be and it is hereby modified by setting aside and vacating from such order the following provision:

3. By issuing any of the bonds herein authorized, Coast Valleys Gas and Electric Company agrees that it will not disburse any of its surplus earnings in the form of dividends until such time as its alleged liability under the guaranty executed by Monterey County Gas and Electric Company shall have been determined and discharged, it being understood that all surplus earnings will in the meantime be invested in property, unless otherwise authorized by the Railroad Commission.

The foregoing third supplemental opinion and third supplemental order are hereby approved and ordered filed as the third supplemental opinion and third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14767.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS COMMON CAPITAL STOCK TO THE PAR VALUE OF FIVE MILLION ONE HUNDRED FORTY-THREE THOUSAND DOLLARS, AND TO USE THE PROCEEDS FROM THE SALE OF SAID COMMON CAPITAL STOCK IN THE MANNER AND FOR THE PURPOSES SET FORTH HEREIN.

Application No. 10361.

Decided April 10, 1925.

C. P. Cullen, for Applicant.

DECOTO, Commissioner.

FIRST SUPPLEMENTAL OPINION.

In its first supplemental application in the above entitled matter on April 1, 1925, Pacific Gas and Electric Company asks permission to issue and sell, at par, 1430 shares of its common capital stock, of the aggregate par value of \$143,000, for the purpose of paying in part

the cost of extensions, additions, betterments and improvements to its facilities and to those of the Mount Shasta Power Corporation, as described in Exhibits "C," "C-1," "D" and "E" attached to Application No. 10682.

By Decision No. 13910, dated August 12, 1924, the Commission authorized applicant to issue, sell and deliver on or before July 31, 1925, at not less than \$93 per share, 50,000 shares (\$5,000,000 par value) of its common stock. Following the authority granted, applicant offered said common stock for sale generally to the public, and received subscriptions for 51,430 shares (\$5,143,000 par value) of said stock. Of the 51,430 shares, 21,751 shares were sold prior to December 31, 1924, at \$93 per share, while the remaining 29,679 shares were subscribed for at par.

The company proposes to sell the \$143,000 of stock at par and to use the proceeds to finance construction expenditures on its system and on that of Mount Shasta Power Corporation. In Application No. 10682 filed on December 16, 1924, the company reported actual or estimated construction expenditures, not financed through the issue of stock or bonds as at September 30, 1924, as \$33,552,317.63, which amount was made up of the following items:

Unreimbursed capital expenditures at September 30, 1924 of Pacific Gas and Electric Company and Mount Shasta Power Corporation (Exhibit B) -----	\$9,641,985 52
Unexpended balance of capital expenditures authorized at September 30, 1924, by Pacific Gas and Electric Company (Exhibits C and C-1) -----	10,448,701 84
Estimated cost of new construction, Pacific Gas and Electric Company, for 1924 and 1925 (Exhibit D) -----	6,000,000 00
Unexpended balance of capital expenditures authorized at September 30, 1924, by Mount Shasta Power Corporation (Exhibit E) -----	7,461,630 27
Total -----	\$33,552,317 63

By Decision No. 14409, dated December 27, 1924, in Application No. 10682 the Commission authorized the company to use the proceeds on hand, and the proceeds that would be received from the stock and bonds theretofore authorized, to finance in part such expenditures. These proceeds were estimated to amount to \$15,698,963.24, which sum, deducted from the \$33,552,317.63, leaves a balance of \$17,853,354.39 to be financed in part through the issue of the \$143,000 of stock.

I herewith submit the following form of order:

FIRST SUPPLEMENTAL ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell \$143,000 of its common capital stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required

for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and sell on or before July 31, 1925, at not less than par, 1430 shares of its common capital stock of the aggregate par value of \$143,000 and to use the proceeds to pay in part the cost of the extensions, additions, betterments and improvements to its facilities and to those of Mount Shasta Power Corporation described in Exhibit "C," "C-1," "D" and "E" attached to Application No. 10682.

The authority herein granted is subject to further conditions as follows:

1. Only such expenditures as are properly chargeable to fixed capital accounts as defined by the Uniform Systems of Accounts prescribed or adopted by this Commission may be financed through the use of such proceeds.

2. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective upon the date hereof.

The foregoing first supplemental opinion and first supplemental order are hereby approved and ordered filed as the first supplemental opinion and first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14769.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA IN RELATION OF THE CALIFORNIA HIGHWAY COMMISSION FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A STATE HIGHWAY CROSSING OVER THE TRACKS OF THE SOUTHERN PACIFIC RAILROAD, A CORPORATION, NEAR HINTON, NEVADA COUNTY, CALIFORNIA.

Application No. 10375.

Decided April 10, 1925.

Paul F. Fratessa, for Applicant.

F. W. Mielke, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

In the above entitled proceeding the people of the State of California on relation of the California Highway Commission, asks for an order authorizing the construction of an overhead crossing of the new state highway known as the "Victory highway" over Southern Pacific Company's tracks near Hinton, Nevada County, California.

A public hearing was held in this matter before Examiner Austin at Sacramento, March 18, 1925.

At the hearing, applicant requested that in addition to the relief sought in the application as filed, this Commission be asked to apportion the cost of the proposed overhead crossing, between the Highway Commission and Southern Pacific Company. As there was no opposition to this request, the amendment to the application was allowed.

The proposed overhead crossing is at Hinton, on Southern Pacific Company's line, about ten miles east of Truckee, Nevada County, California. This overhead crossing is a link in the so-called "Victory highway," which is to be a transcontinental highway artery across the country in an easterly direction from that portion of the highway traversing the central portion of the State of California. The California Highway Commission now has under construction that part of the Victory highway east of Truckee, following the general course of the Truckee River and connecting with a portion of the Victory highway being built by the state of Nevada, passing through Reno, Nevada. This new highway will entirely replace, for through traffic, the existing highway between Truckee and Reno, which is known as the "Dog Valley road." At the hearing it was stipulated by the parties that there existed a public necessity for the new highway, and for the separation of grades at the proposed crossing. The new highway between Truckee and Reno will be an improvement over the existing one, in that the grades will be lighter, the roadway wider, and snow will not interfere with traffic on the new highway to the extent it does on the Dog Valley road.

The railroad in the vicinity of the proposed crossing follows the north bank of the Truckee River. It is the main line of Southern Pacific Company between San Francisco, California, and Ogden, Utah. At this time of the year the railroad normally operates over this line a total of ten passenger and fifteen freight trains per day. During summer season, the freight traffic is approximately twice as heavy. The railroad has a 400-foot right of way in the vicinity of the proposed overhead crossing, on which there is a double track main line, with a passing track between the main tracks. As this is a mountainous country, much depends upon selecting the most feasible route for the new highway. It appears that the Highway Commission has selected the proposed crossing after making a thorough survey of the district.

It is now proposed to carry the highway over the river and railroad by means of two concrete structures separated by a short fill. That portion over the railroad will be a reinforced concrete viaduct supported by three bents and two abutments. It will have a roadway width of 21 feet, will intersect the railroad at an angle of approximately 57 degrees and will be on a 6 per cent grade descending toward the river. The total length of the overhead structure between abutments is 171 feet. This structure provides for the three existing tracks and affords adequate clearance for two additional tracks. The cost of the overhead structure is estimated at \$24,955, and the cost of grading the approaches within the railroad right of way is estimated at \$9,590; the cost of the improvement proposed within the railroad right of way aggregating \$34,545. The proposed overhead structure provides for a minimum overhead clearance over the existing tracks of 22 feet. Southern Pacific Company plans to improve its tracks in the vicinity of the proposed crossing by increasing the weight of rail from 90 to 110 pounds and increasing the depth of the ballast. To provide for the necessary raising of the tracks, without violating the Commission's orders governing clearances, Southern Pacific Company requests that the overhead structure be constructed with a clearance of 22 feet 8 inches above the top of the present rail. Applicant estimates the cost of raising the entire overhead structure eight inches, to be \$9,000. This requirement appears reasonable and should be provided for in this case. The total cost of the grade separation project, with a clearance of 22 feet 8 inches over the existing track will be approximately \$44,000.

The importance of this highway and railroad is such that it appears that public convenience and necessity require the separation of grades at the cost estimated.

Applicant contends that a substantial portion of the cost of this grade separation project be borne by Southern Pacific Company, but the railroad objects to paying any portion of the cost, for the reason that the crossing is desired as a part of a new highway, and not to eliminate an existing hazard. Although the proposed overhead crossing is a portion of a new highway, the railroad company can not reasonably expect to escape paying some portion of the improvement. Applicant has elected to carry its highway over the tracks of the railroad primarily to eliminate the public hazard of a grade crossing, a plan which will result in a material benefit to the railroad. Undoubtedly if applicant had attempted to locate its line with a grade crossing of the railroad, such a highway could have been constructed at less expense than one with a grade separation, but this would have resulted in a serious hazard, both to the railroad and to the public.

It is a well-established principle that the railroad incurs a continuing obligation to provide the public with reasonably safe opportunity to cross its tracks. It is in the public interest to keep the number of crossings over railroads at a minimum consistent with public needs. The crossings that are allowed should be constructed and maintained so as to create the least public hazard and inconvenience, consistent with reasonable expenditures. The railroad, in this case, will materially benefit by the construction of an overhead crossing, as compared with a grade crossing for the new state highway. Therefore, the additional expense of carrying the highway over the railroad, as compared to a grade crossing, should be borne in part by the railroad.

After consideration of all the evidence in this case, it appears that an equitable apportionment of the cost providing for a separated grade at the so-called "Victory" state highway with the tracks of Southern Pacific Company, would be to assess 80 per cent of the cost of this work to applicant, and 20 per cent of the cost, exclusive of paving, to the railroad. The entire cost of paving the roadway should be borne by applicant.

ORDER.

The people of the State of California on relation of the California Highway Commission, having made application for an order authorizing the construction of an overhead crossing over the tracks of Southern Pacific Company at Hinton, Nevada County, California, and apportioning the cost thereof, public hearing having been held, the matter having been submitted and being now ready for decision:

It is hereby found as a fact that public convenience and necessity require the construction of an overhead crossing of the state highway above and across the tracks of Southern Pacific Company, at the location hereinafter specified; therefore,

It is hereby ordered, that the people of the State of California on relation of the California Highway Commission, be and they are hereby authorized to construct an overhead crossing across the tracks of Southern Pacific Company at Hinton, Nevada County, California, as shown on the map (Div. III, Nev. 38-B) attached to the application, said crossing to be constructed subject to the following conditions, viz:

(1) The proposed grade separation shall be constructed in accordance with detailed plans which shall be submitted to and approved by this Commission.

(2) The cost of the grade separation, exclusive of roadway pavement, shall be borne 80 per cent by applicant and 20 per cent by Southern Pacific Company. The entire cost of paving the roadway of the viaduct and approaches shall be borne by applicant. The maintenance of said overgrade crossing shall be borne by applicant.

(3) All provisions of General Order No. 26-A of this Commission, which are pertinent hereto, shall be complied with.

(4) Applicant shall, within thirty days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, public convenience and necessity demand such action.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14770.

IN THE MATTER OF THE APPLICATION OF W. J. HOLE TO SELL AND
CITIZENS DOMESTIC WATER COMPANY, A CORPORATION, TO
PURCHASE A PUBLIC UTILITY WATER PLANT.

Application No. 10618.

Decided April 10, 1925.

W. J. Hole, in propria persona.

J. B. Cook, for Citizens Domestic Water Company.

BY THE COMMISSION.

OPINION.

In this application, the Railroad Commission is asked to make an order authorizing W. J. Hole to sell public utility water properties to Citizens Domestic Water Company.

Until recently, W. J. Hole has been the owner of the Rancho La Sierra in Riverside County. In conjunction with said ownership, and in the operation of said Rancho, he constructed, owned and operated a water plant for the purpose of supplying the residents and inhabitants of said Rancho with water for domestic purposes. The Rancho La Sierra comprises some ten thousand acres and has been purchased by Wm. M. Cook, W. E. Babb et al., who propose to operate, improve, subdivide and sell the same. In acquiring the Rancho, they also acquired the public utility water system which they now propose to transfer to the Citizens Domestic Water Company. A description of the water system is contained in applicant's Exhibit No. 1, which is an appraisal of all properties, except materials and supplies now

installed to serve the tract with water for domestic purposes. It is of record that any properties shown by such report as having been installed prior to March 15, 1924, were installed by W. J. Hole and those installed subsequent to that date, by the Citizens Domestic Water Company. The materials and supplies on hand have also been purchased by Citizens Domestic Water Company. The transfer of the properties to the Citizens Domestic Water Company at this time will be for a nominal consideration. Later it is the intention of the company to file an application with the Commission for permission to issue stock in payment for the properties. In view of this situation, it does not seem necessary at this time to pass on the appraisal of the properties as submitted.

There has been filed, in this proceeding, a copy of an agreement dated March 15, 1924, between W. J. Hole and W. E. Babb and Wm. M. Cook, under the terms of which agreement W. J. Hole agrees to sell to W. E. Babb and Wm. M. Cook, public utility water properties for the sum of \$15,000, \$3,000 to be paid upon the execution and delivery of the agreement and the balance in four equal annual payments of \$3,000 each. It is our understanding that this agreement will be assigned to the Citizens Domestic Water Company at the time that it acquires the public utility water properties. The agreement constitutes an evidence of indebtedness, some of which indebtedness is payable at more than one year after date. Under the terms of the Public Utilities Act, the agreement is void unless its execution is authorized by the Commission.

ORDER.

W. J. Hole, having applied to the Railroad Commission for permission to sell public utility water properties, and Citizens Domestic Water Company having applied for permission to purchase such properties, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the transfer of the properties is in the public interest and should be authorized as herein provided;

It is hereby ordered, that W. J. Hole be and he is hereby authorized to sell and transfer directly or indirectly to the Citizens Domestic Water Company the public utility water properties described in this application. Citizens Domestic Water Company is hereby authorized to acquire and operate such properties and to execute an agreement in substantially the same form as the agreement filed in this proceeding, dated March 15, 1924.

It is hereby further ordered, that the Citizens Domestic Water Company be and it is hereby authorized to issue and sell, for not less than par, five shares (\$500 par value) of its common capital stock for the

purpose of qualifying its directors, and use the proceeds obtained from the sale of such stock for general corporate purposes.

It is hereby further ordered, that within 60 days from the date hereof, Citizens Domestic Water Company shall file with the Railroad Commission a copy of the deed under which it will acquire and hold title to the properties which it is herein authorized to purchase.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted to transfer properties will become effective when Citizens Domestic Water Company has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which minimum fee is \$25. Under the authority herein granted to transfer properties, no property may be transferred after July 1, 1925.

2. The Commission reserves the right to determine, in a subsequent proceeding, the value of the properties which the Citizens Domestic Water Company is herein authorized to purchase.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14771.

WILLIAM DUELKS

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 2018.

Decided April 10, 1925.

Eugene A. Holmes, for Complainant.
Frank Karr, for Defendant.

BY THE COMMISSION.

OPINION.

In this proceeding, William Duelks, a resident of the community of Graham, Los Angeles County, complains of conditions existing at the Manchester avenue crossing of defendant in the county of Los Angeles alleging that the traffic of the railway over said crossing is very heavy; that the community of Graham is rapidly developing as a business center and that only local trains of defendant stop at such station to receive and discharge passengers; and that express trains and local trains, when not stopping at the station of Graham, pass over the crossing of Manchester avenue at a high rate of speed—many times in excess of forty-five (45) miles per hour. Complainant prays for an order of this Commission requiring defendant to cause all trains crossing the intersection of Manchester avenue to come to a complete stop at said crossing.

Defendant duly filed its answer herein denying the material allegations of the complaint and alleging that in compliance with an order of this Commission (Decision No. 11828 in Case No. 1837, decided March 22, 1923) a human flagman is employed at Manchester avenue crossing daily between the hours of 6 a.m. and 10 p.m.; that public interest and convenience do not require further additional crossing protection unless the present flagmen were to be replaced by flagmen with police power and authority to arrest such users of the highway that violate traffic or warning signals.

A public hearing on this complaint was conducted by Examiner Handford at Los Angeles, at which time evidence was received, the matter was duly submitted and it is now ready for decision.

Witnesses for complainant testified as to conditions existing at Manchester avenue crossing; that the crossing was one over which the automobile traffic was rapidly increasing; that three or four accidents had been observed at the crossing since the installation of the human flagman in compliance with the previous order of the Commission in Case No. 1837; and that high speed had been observed by some of the express trains which were not scheduled to stop at Graham station. It was stipulated that the count of traffic as appearing in the complaint might be considered typical of the average use of this crossing. This traffic count was made on April 15, 1924, between the hours of 5 a.m. and 7 p.m., during which time 4560 automobiles, 1075 pedestrians, 387 limited or express trains, 283 local trains and 38 freight trains passed over the highway and tracks of defendant. Complaint was also made regarding the noise occasioned by the defendant's railroad operation in the vicinity of Graham station, by the explosion of torpedos used as flagging protection by trains, and the switching of cars to and from the defendant's material yard located near this point. The matter of operating noises is not an issue in this proceeding but the defendant being advised of the cause of complaint should take such remedial action with its employees as will eliminate the cause of complaint.

Mr. F. L. Annable, general superintendent of defendant company and in charge of its train operation, testified that the crossing watchman was installed on April 1, 1923, in compliance with the Commission's Decision No. 11828; that the speed restriction for all trains not scheduled to stop at Graham station was twenty (20) miles per hour over the Manchester avenue crossing; that speed checks were constantly being made over the entire system; that between the months of March to August, 1924, inclusive, 460 checks of speed were made at the crossing herein complained of and that 99 per cent of such speed checks were at speeds not in excess of the limit of twenty miles per hour; and that one motorman found to have exceeded the speed

limit prescribed by the company's regulations had been taken out of service. This witness further testified that the scheduled trains crossing Manchester avenue were 366 express trains using the inside tracks of the four-track system; 20 freight and 362 local passenger trains using the outside tracks. The crossing is supplied with an automatic wig-wag signal with a muffled type of bell in addition to the protection furnished by the human flagmen during their hours on duty.

Mr. O. A. Smith, passenger traffic manager for defendant company, testified that his office was in receipt of frequent complaints regarding the necessity for maintaining scheduled time of trains on the southern division and that any additional safety stops would result in the necessity for lengthening schedules, as passengers destined to or from Graham station would then board limited trains by the reason of the fact that such trains were required to make a safety stop at such point, thereby further delaying the schedule of the through trains. A record of passengers handled on the following southern division lines, all of which pass over the Manchester avenue intersection, for the month of July, 1924, shows the following:

Line	Number of passengers
Long Beach -----	389,554
San Pedro, via Dominguez -----	341,468
San Pedro, via Gardena -----	86,075
Newport -----	69,431
Santa Ana -----	76,332
Redondo -----	92,685
Hawthorne -----	28,303
Dominguez Locals -----	16,165
Total -----	\$1,100,013

The Commission has given careful consideration to the record in this proceeding and it is our conclusion that the prayer of complainant for an order requiring defendant to stop all its trains before crossing Manchester avenue is not justified by the evidence herein adduced. There is no showing that the accidents which have occurred at this crossing since the installation of the human flagman in compliance with the order of the Commission (Decision No. 11828) were occasioned by any fault of the defendant carrier and if the parties therein involved had respected the signals of the crossing flagman and the visual and audible warning of the automatic wig-wag crossing signal the accidents would not have occurred. Manchester avenue has been paved for a period of over a year and the fact of the street improvement by paving has developed this avenue into a heavily traveled east and west highway. The establishment of complete protection at this point can only be accomplished by a separation of grades, either by depressing or elevating the highway. The cost of this separation

of grades would require a substantial expenditure by the defendant company with the county of Los Angeles as a participant. We are not of the opinion, from the evidence adduced, that the expenditure is warranted by the conditions now existing at this point, nor are we convinced that the stopping of all through freight and express passenger trains will result in an elimination of the hazard. Passengers of the defendant company originating at or destined to points south of Graham station should be transported to their respective destinations promptly and in accordance with advertised schedules and it herein appears, on the basis of July, 1924, being a representative month, that approximately thirteen million passengers annually pass over the Manchester avenue intersection to or from points served by lines operating trains which do not stop at Graham station.

We are, however, of the opinion and hereby find as a fact that the protection afforded by the human flagmen now stationed at this point would be considerably enhanced if such flagmen were uniformed employees of the defendant company, if said employees were also deputized by the county of Los Angeles as deputy sheriffs or traffic policemen, and if such employees were required to perform their duties as flagmen by being located in the center of Manchester avenue on either side of the tracks instead of being stationed at a point near the side of the avenue; such flagmen also to be active employees and selected with a view to their ability to fully perform the duties of their position in protecting the public at a crossing over which a considerable and increasing volume of vehicular traffic passes. The order herein will so provide.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that defendant, Pacific Electric Railway Company, a corporation, be and it hereby is directed to hereafter employ in the protection of its crossing at the intersection of Manchester avenue in Los Angeles County with the tracks of its southern division, near Graham station, active, experienced and uniformed flagmen who will be on duty between the hours of 6 a.m. and 10 p.m., daily, such flagmen to be normally stationed in the center of said Manchester avenue and not at the side of such avenue, and that if the necessary appointments can be secured, such flagmen should be deputized by the county of Los Angeles as deputy sheriffs or traffic policemen, or be appointed state railroad policemen.

It is hereby further ordered, that as to the further relief herein sought by the complainant in this proceeding this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14777.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, AN ELECTRICAL CORPORATION, FOR A CERTIFICATE OF THE RAILROAD COMMISSION THAT PUBLIC NECESSITY AND CONVENIENCE REQUIRE THE EXERCISE OF ALL AND SEVERAL THE RIGHTS AND PRIVILEGES CONTAINED IN THAT CERTAIN GRANT OF FRANCHISE, BEING ORDINANCE NO. 73-A, PASSED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL ON OR ABOUT THE SIXTH DAY OF OCTOBER, 1924, AND AUTHORIZING ONE H. J. INGRAM, A RESIDENT OF WESTMORLAND, IMPERIAL COUNTY, CALIFORNIA, HIS SUCCESSORS AND ASSIGNS, TO ERECT, CONSTRUCT, OPERATE AND MAINTAIN, FOR A PERIOD OF FIFTY (50) YEARS AN ELECTRIC POLE, TOWER AND WIRE SYSTEM OVER, ALONG AND UPON THE PUBLIC ROADS AND HIGHWAYS IN AND ABOUT THAT PORTION OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, WHICH PORTION INCLUDES AND SURROUNDS THE UNINCORPORATED TOWN OR TOWNSITE OF WESTMORLAND AND ADJACENT AREAS; AND WHICH SAID FRANCHISE WAS THEREAFTER, AND ON OR ABOUT THE SIXTEENTH DAY OF OCTOBER, 1924, WITH THE CONSENT AND APPROVAL OF SAID BOARD OF SUPERVISORS OF SAID COUNTY, ASSIGNED AND TRANSFERRED TO APPLICANT COMPANY, THE PRESENT OWNER AND HOLDER THEREOF.

Application No. 10923.

Decided April 10, 1925.

Isaac B. Potter, for Applicant.

BY THE COMMISSION.

OPINION.

The Railroad Commission is asked to make an order declaring that public convenience and necessity require The Southern Sierras Power Company to exercise the rights and privileges granted it by the board of supervisors of Imperial County by Ordinance No. 73-A (Applicant's Exhibit No. 1).

Under date of October 6th, 1924, the board of supervisors of Imperial County enacted an ordinance (No. 73-A) granting to H. J. Ingram, his successors and assigns, a right, franchise and privilege to erect, construct, operate and maintain, for a period of fifty years, an electric pole, tower and wire system, consisting of poles, towers and wires and all other apparatus and appliances necessary or convenient for transmitting electricity, electrical energy, light, heat, and power over, along and upon certain of the public roads and highways in the vicinity of the town or townsite of Westmorland, Imperial County. The

territory covered by the ordinance is described in said ordinance as follows:

All of the townsite of Westmorland situated in the west half of Section Ten (10), and the east half of Section Eleven (11), Township Thirteen (13) South, Range Thirteen (13) East, San Bernardino Base and Meridian; also Tracts One Hundred Five (105), Ninety-seven (97), Ninety-eight (98), One Hundred Two (102), One Hundred Three (103), One Hundred Nineteen (119), One Hundred Twenty (120), One Hundred Eighty-two (182), One Hundred Eighty (180), One Hundred Twenty-three (123), One Hundred Twenty-four (124); north half of Tract Ninety-nine (99); the west half of Tract One Hundred Seven (107), and the west half of Tract One Hundred Six (106) in said Township Thirteen South, Range Thirteen (13) East; also Lots One (1) and Sixty-one (61) of Section Four (4), and Lots Seven (7), Four (4), Sixty-five (65), Sixty-six (66) and Seventy-two (72), of Section Three (3) of said Township Thirteen (13) South, Range Thirteen (13) East, which said Lots comprise the land lying between the north lines of Tracts One Hundred Twenty-three (123), One Hundred Twenty-four (124) and the north half of Tract One Hundred Seventy-seven (177) and the north line of said Township Thirteen (13) South, Range Thirteen (13) East; also the east half and the north-west quarter of Section Twenty-one (21); east half of Section Twenty-eight (28); east half and the southwest quarter of Section Thirty-three (33); west half and the northeast quarter of Section Twenty-two (22); west half of Section Twenty-seven (27), west half of Section Thirty-four (34); the northeast quarter and the south half of Section Thirteen (13); the south half of Sections Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17) and Eighteen (18); and the north half of Sections Nineteen (19), Twenty (20), Twenty-three (23) and Twenty-four (24), Township Twelve (12) South, Range Thirteen (13) East, San Bernardino Base and Meridian. Also the southwest quarter of Section Nine (9); south half of Section Seven (7); south half of Section Eight (8); Sections Seventeen (17) and Eighteen (18); and the northwest quarter of Section Nineteen (19), Township Twelve (12) South, Range Fourteen (14) East, San Bernardino Base and Meridian. Such franchise to include all highways within or bordering upon the above described lands and each of them.

Applicant has filed as its Exhibit No. 2 a document showing that H. J. Ingram has assigned his rights and privileges under Ordinance No. 73-A to The Southern Sierras Power Company, and that The Southern Sierras Power Company accepts and assumes all of the terms, covenants and conditions of said ordinance. The record shows that the district covered by Ordinance No. 73-A has a population of about four hundred (400) and that applicant has approximately 60 customers in such territory. No other electric utility operates within the territory, nor has anyone protested the granting of this application.

ORDER.

The Southern Sierras Power Company having applied to the Railroad Commission for an order declaring that public convenience and necessity require the exercise by the company of the rights and privileges granted it by Ordinance No. 73-A passed by the board of supervisors of the county of Imperial on or about October 6, 1924, a public hearing having been held before Examiner Fankhauser and the Commission having considered the evidence submitted and being of the opinion that this application should be granted as herein provided;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the exercise by The

Southern Sierras Power Company of the rights and privileges granted it by Ordinance No. 73-A passed by the board of supervisors of the county of Imperial on or about October 6th, 1924, provided, that The Southern Sierras Power Company shall first file with the Railroad Commission a stipulation duly authorized by its board of directors declaring that The Southern Sierras Power Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said rights and privileges in excess of the amount actually paid to the county of Imperial by said The Southern Sierras Power Company or by H. J. Ingram, as a consideration for the granting of such rights and privileges, which amount is to be set forth in said stipulation, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation has been filed in form satisfactory to the Railroad Commission.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14778.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS, POWER COMPANY, AN ELECTRICAL CORPORATION, FOR A CERTIFICATE OF THE RAILROAD COMMISSION THAT THE PRESENT AND FUTURE PUBLIC CONVENIENCE AND NECESSITY REQUIRE AND WILL REQUIRE THE CONSTRUCTION OF AN ELECTRICAL LINE OR SYSTEM, OR THE EXTENSION BY APPLICANT COMPANY TO, INTO AND THROUGHOUT THE CITY OF CALIPATRIA, IMPERIAL COUNTY, CALIFORNIA, OF ITS LINE OR SYSTEM, AND THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY APPLICANT COMPANY OF THE RIGHT AND PRIVILEGE TO ERECT, CONSTRUCT, OPERATE AND MAINTAIN WITHIN THE SAID CITY A CERTAIN ELECTRICAL SYSTEM, WITH NECESSARY APPURTENANCES, PURSUANT TO CERTAIN FRANCHISE RIGHTS GRANTED TO SAID APPLICANT COMPANY BY THE SAID CITY OF CALIPATRIA, THROUGH ITS BOARD OF TRUSTEES AND NOW IN FORCE AND OWNED BY SAID APPLICANT COMPANY.

Application No. 10924.

Decided April 10, 1925.

Isaac B. Potter, for Applicant.

BY THE COMMISSION.

OPINION.

The Southern Sierras Power Company applies for an order of the Railroad Commission certifying that public convenience and necessity require the exercise of a franchise for the transmission and distribution of electrical energy in the city of Calipatria.

The Southern Sierras Power Company now operates transmission and distributing electrical lines throughout the populous portions of Imperial County. The city of Calipatria is located in such county on the line of the Southern Pacific Railroad, at a point a little east and north of the center of such county and a short distance easterly

of the southern terminus of the Salton sea. The city is close to the main transmission line of The Southern Sierras Power Company which line extends in a southeasterly and southerly direction from San Bernardino to Indio, Coachella, Calipatria, Brawley, Imperial, El Centro and Calexico, and from El Centro in an easterly direction to the Colorado River at Yuma.

On July 24, 1924, the board of trustees of the city of Calipatria adopted an ordinance (No. 44) granting to The Southern Sierras Power Company the right and privilege to erect, construct, operate and maintain, for a period of fifty years, an electric pole, tower and wire system consisting of poles, towers, wires, lines, conduits, ducts and all other appliances and apparatus necessary or convenient for transmitting electricity and electrical energy over, around, across, under and upon the public alleys in the city of Calipatria for light, heat and power purposes, including the purpose of supplying power to electric street and highway cars, motors, vehicles and railroad lines, and for any other purposes for which electricity may be applied as a use. A certified copy of Ordinance No. 44 has been filed in this proceeding as applicant's Exhibit No. 1.

No other utility is distributing electrical energy in the city of Calipatria, nor was the granting of this application protested.

ORDER.

The Southern Sierras Power Company having applied to the Railroad Commission for an order declaring that public convenience and necessity require the exercise by the company of the rights and privileges granted it by Ordinance No. 44 of the board of trustees of the city of Calipatria, a public hearing having been held before Examiner Fankhauser, and the Commission having considered the evidence submitted and being of the opinion that this application should be granted as herein provided:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the exercise by The Southern Sierras Power Company of the rights and privileges granted it by Ordinance No. 44 of the city of Calipatria, adopted July 24, 1924, provided that The Southern Sierras Power Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that The Southern Sierras Power Company, its successors and assigns will never claim before the Railroad Commission, or any court or other public body a value for said rights and privileges in excess of the amount actually paid to the city of Calipatria as a consideration for the granting of such rights and privileges, which amount is to be set forth in said stipulation, and shall have received from the Railroad Commission a supplemental

order declaring that such stipulation has been filed in form satisfactory to the Railroad Commission.

Dated at San Francisco, California, this tenth day of April, 1925.

DECISION No. 14782.

GREAT WESTERN ELECTRO-CHEMICAL COMPANY, A CORPORATION

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2058.

Decided April 13, 1925.

RATES—STEAM RAILROAD—SODA CONCENTRATES.—The rate of 25 cents per 100 pounds, minimum 80,000 pounds, Keeler to Pittsburg, is not unjust, unreasonable, excessive or otherwise in violation of state constitution.

McCutchen, Olney, Mannon and Greene, by *Allan P. Matthew, John O. Moran and A. B. Mason*, for Complainant.

H. W. Klein, V. S. Andrus and F. W. Meilke, for Defendant.

BY THE COMMISSION.

OPINION.

Complainant, Great Western Electro-Chemical Company, is a corporation organized under the laws of the State of California, having its principal office in the city of San Francisco and its manufacturing plant at Pittsburg. It is engaged in the manufacturing, producing and selling of caustic soda and various other chemical products and uses large quantities of soda concentrates, shipped from Keeler to Pittsburg via the rails of the Southern Pacific.

By complaint filed October 25, 1924, and as amended, it is alleged that rate of 25 cents per 100 pounds, applicable to shipments of soda concentrates from Keeler to Pittsburg since March 14, 1924, was, when exacted and now is, unjust, unreasonable and excessive and in violation of section 13 of the Public Utilities Act.

We are asked to establish for the future a rate not in excess of 19½ cents per 100 pounds and to award reparation on shipments made since March 14, 1924.

Rates will be stated in cents per 100 pounds.

A public hearing having been held before Examiner Geary January 13, 1925, and the case having been briefed and duly submitted is now ready for an opinion and order.

The rate of 25 cents on soda concentrates, minimum 80,000 pounds, from Keeler to Pittsburg, was established March 14, 1924, prior to which date the rate was 31½ cents, minimum 60,000 pounds. The actual loading of the commodity approximates 90,000 pounds, and the shipments average 700 tons per month. It requires approximately

two tons of soda concentrates to produce one ton of caustic soda, the principal commodity manufactured by complainant, and the cost of production is between \$62 and \$63 per ton.

Soda concentrates is a crude substance, consisting of sodium carbonate, sodium bi-carbonate, sodium chloride, potassium carbonate, potassium chloride, and borax. It is obtained from the shores of Owens Lake, near Keeler, put through an evaporation or drying process to eliminate the moisture, sacked and shipped to Pittsburg in box cars. Owens Lake is the only place in the United States where these soda concentrates are produced. The complainant owns the property at Owens Lake and leases the same to the National Soda Products Company and, in turn, repurchases under contract the soda concentrates from its lessor, paying approximately \$7 per ton f. o. b. Keeler. The price of the soda concentrates is determined by the sodium oxide content. The term "soda concentrates" as used in the tariff in connection with the rate from Keeler to Pittsburg was coined for use in tariff publication after consultation with representatives of complainant.

Complainant refers to the fact that sodium carbonate, because of the drying process it undergoes at Keeler, is a metal and, therefore, contends that the rate on soda concentrates should not exceed the rate on ore concentrates. The 19½ cent rate proposed by complainant on soda concentrates from Keeler to Pittsburg was suggested by a like rate applying to ore and ore concentrates having a value of twenty dollars per ton, minimum 80,000 pounds.

Complainant submitted a number of exhibits setting forth many rates applying to ore concentrates and to speiss (arsenide, cobalt, nickel, iron and copper) from Nevada and Utah to California. The comparisons are very much weakened, however, by reason of the fact that ore, ore concentrates and speiss being entirely different commodities are in no manner in competition with soda concentrates.

Keeler is a local station on the Mina branch of the Salt Lake Division, 490 miles distant from Pittsburg. The movement from Keeler involves a narrow guage branch line 16.1 miles to Owenyo, a broad gauge branch line from Owenyo to Mojave 142.3 miles, and a main line from Mojave to Pittsburg, 331 miles. At Owenyo the tonnage must be transferred from narrow to broad guage cars.

Defendant, in exhibits and testimony, gave details of the operating conditions from Keeler to Pittsburg, showing that labor and fuel costs on the line from Keeler to Mojave were higher than on other parts of the system, also that because of heavy grades and severe curves, helper engines are necessary at points between Keeler and Bakersfield. In transferring the tonnage from the narrow gauge to broad gauge cars there is a labor cost of approximately 30 cents per ton, while all costs for the transferring, estimated by defendant, including switching,

maintenance and checking, is between 40 and 50 cents per ton. During the year 1924, based upon figures secured at the Owenyo agency, 126 broad gauge cars of soda concentrates required the use of 488 narrow gauge cars, or a ratio of 3.87 narrow gauge cars for every broad gauge car used. It was further shown that approximately 80 per cent of the narrow gauge cars used to move the soda concentrates from Keeler to Owenyo returned to Keeler empty; also that approximately 75 per cent of the broad gauge cars were moved empty from Mojave to Owenyo for the outbound movement.

The total consumption of caustic soda on the Pacific coast was 34,000 tons during the year 1924 and of this amount complainant manufactured approximately 9000 tons. Complainant's plant is the only one in California, but it is claimed that because of the freight rates and other costs it can not meet competition and market the finished products at points outside of the San Francisco Bay territory. The competition encountered is from the caustic soda manufactured at Syracuse, New York, and other eastern points, transported by water to the Pacific coast points of distribution, Seattle, Tacoma, Everett, Washington; San Francisco and San Pedro, California. The eastern manufacturer has an advantage of $25\frac{1}{2}$ cents at Seattle, Tacoma and Everett and 31 cents at Los Angeles.

As a showing that the present rate of 25 cents is not unreasonable, defendant presented the following comparisons of rates, many from the same general territory, applying to different alkaline earths:

Commodity	From	To	Miles	Minimum carload weight in pounds	Rate
Soda concentrates-----	Keeler, Cal.	Pittsburg	490	80,000	25
Trona (crude salts)-----	Keeler, Cal.	San Francisco	528	60,000	$28\frac{1}{2}$
Silica-----	Keeler, Cal.	San Francisco	528	80,000	$28\frac{1}{2}$
Talc-----	Keeler, Cal.	San Francisco	528	80,000	$28\frac{1}{2}$
Soapstone-----	Keeler, Cal.	San Francisco	528	40,000	$28\frac{1}{2}$
Lime-----	Keeler, Cal.	San Francisco	528	60,000	$24\frac{1}{2}$
Crude bicarbonate of soda-----	Keeler, Cal.	San Luis Obispo	424	60,000	43
Soda ash-----	Keeler, Cal.	Los Angeles	260	60,000	$21\frac{1}{2}$
Salt cake-----	McKittrick, Cal.	San Francisco	349	80,000	23
Soapstone, crude-----	Acton, Cal.	San Francisco	415	80,000	$28\frac{1}{2}$
Silica-----	Sisson, Cal.	Richmond	295	80,000	$21\frac{1}{2}$
Salt cake-----	Wasbuska, Nev.	San Francisco	328	80,000	23
Crude bicarbonate of soda-----	Bango, Nev.	San Francisco	293	60,000	$28\frac{1}{2}$
Crude salt-----	Trona, Cal.	Pittsburg	411	80,000	25
Trona (crude salts)-----	Trona, Cal.	San Francisco	448	60,000	33
Barytes, crude-----	Kinkead, Nev.	Nitro, Cal.	394	80,000	25
Barytes-----	Laws, Cal.	San Francisco	566	60,000	$28\frac{1}{2}$
Crude salts-----	Trona, Cal.	Bakersfield	147	60,000	20

Complainant, as heretofore stated, makes comparisons only with the rates on ore concentrates and speiss and bases its contention upon the fact that because these commodities have a rate of $19\frac{1}{2}$ cents such rate should not be exceeded for the movement of soda concentrates. It is not difficult to select from the great mass of rates applying to the thousands of different commodities rates either higher or lower than

those under attack, but before this Commission can conclude that a rate is too high because it is higher than some other rate, we must have proof that the rate sought to be established is in and of itself reasonable per se.

The present rate of 25 cents, minimum 80,000 pounds, for 490 miles, yields \$200 per car, 41 cents per car mile and 1.02 cents per ton mile; based on the average loading of 90,000 pounds, the charge is \$225 per car, or approximately 45 cents per car mile.

That the complainant is laboring under difficulties in competing with eastern manufacturers who forward their commodities to the Pacific coast via the Panama canal, seems apparent, but upon this record and taking into consideration all of the operating difficulties and the comparison of rates, the present rate of 25 cents is not shown to be unreasonable or excessive. We find as a fact that the rate of 25 cents per 100 pounds, minimum 80,000 pounds, applying to soda concentrates from Keeler to Pittsburg, is not unjust, unreasonable, excessive or otherwise in violation of the state constitution and of the Public Utilities Act. The proceeding will be dismissed.

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and basing its order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the complaint in the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this thirteenth day of April, 1925.

DECISION No. 14787.

IN THE MATTER OF THE APPLICATION OF STUART DARLING TO SELL CERTAIN GAS DISTRIBUTING SYSTEM AT SUMMERLAND, CALIFORNIA, TO THE SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA.

Application No. 10840.

Decided April 14, 1925.

Stuart Darling, Applicant, *in propria persona*.

Le Roy M. Edwards, for Southern Counties Gas Company of California.

BY THE COMMISSION.

OPINION.

Applicant, Stuart Darling, asks permission to sell, for the sum of \$1,625, his gas distributing system at Summerland to the Southern Counties Gas Company of California.

He is now, and has been for a number of years past, supplying natural gas to some thirty to fifty consumers in Summerland, Santa Barbara County. The gas supplied through his distribution system is obtained from one gas well at Summerland. The gas served by him has a heat content of 461 B.t.u. He desires permission to sell his gas distributing system for the reason that the amount of gas available from his well is not sufficient to render at all times adequate service to his consumers and furthermore, for the reason that he desires to devote his entire time to his private business. The Southern Counties Gas Company of California, which has agreed to purchase the plant, has extended a pipe line from Ventura to Santa Barbara which passes through the town of Summerland. It is of record that the company is in a position to render adequate and modern gas service to the people of such town, including those now served by Stuart Darling. The gas which the Southern Counties Gas Company of California will sell, has a heat content of approximately 1150 B.t.u.

Upon request of applicant, Stuart Darling, an appraisal of his distribution system was made by Mr. C. C. Brown, gas engineer of the Commission, as of January 15, 1925, a copy of which is attached to the application marked Exhibit "A." This appraisal, including distribution mains, gas services and gas meters, shows a present-day physical value of \$1,603.24. As stated above, Southern Counties Gas Company of California has agreed to pay \$1,625 in cash for the gas distributing system owned by Stuart Darling.

At the hearing had on March 21, 1925, before Examiner Williams, no one appeared to protest the granting of this application. It is apparent that the gas consumers of Summerland will be benefited by more adequate service, a superior quality of gas and a rate reduction of approximately 30 per cent, when consideration is given to the relative heating values of the gas now sold by Stuart Darling and that which will be sold by the Southern Counties Gas Company of California.

ORDER.

A public hearing having been held in the above entitled application, the matter having been submitted, and the Commission being of the opinion that this application should be granted;

It is hereby ordered, that applicant, Stuart Darling, be and he is hereby authorized to sell, on or before June 30, 1925, his gas distributing system and business, consisting of the properties set forth in applicant's Exhibit "A," to Southern Counties Gas Company of California, for the sum of \$1,625, and said Southern Counties Gas Company of California be and it is hereby authorized to purchase such properties.

The authority herein granted is subject to the following conditions:

1. Southern Counties Gas Company of California shall file within thirty days after it acquires said properties, a certified copy of the deed, bill of sale, or other instrument under which it acquires title to such properties.

2. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this fourteenth day of April, 1925.

DECISION No. 14788.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF TWENTY-NINE THOUSAND FOUR HUNDRED EIGHTY SHARES OF ITS CAPITAL STOCK.

Application No. 10975.

Decided April 15, 1925.

R. G. Dilworth, for Applicant.

SQUIRES, Commissioner.

OPINION.

San Diego Electric Railway Company asks permission to issue to the Oceanic Steamship Company 29,480 shares of its common capital stock (\$2,948,000 par value) in exchange and purchase of \$2,948,000 face value of bonds of applicant owned by said Oceanic Steamship Company.

San Diego Electric Railway Company has an authorized stock issue of \$5,000,000 divided into 50,000 shares of the par value of \$100 each. Stock in the amount of \$1,350,000 is outstanding.

Pursuant to the authority heretofore granted by the Commission (Decision No. 1851, dated October 6, 1914) San Diego Electric Railway Company executed a mortgage securing the payment of an authorized issue of \$10,000,000 of 5 per cent general first lien sinking fund gold bonds dated January 1, 1915, and payable January 1, 1955. It is of record that \$4,497,000 of such bonds have heretofore been issued and that of the \$4,497,000, \$1,549,000 have been redeemed, leaving \$2,948,000 of bonds outstanding. These bonds are owned by the Oceanic Steamship Company which has agreed to accept in payment for such bonds \$2,948,000 of common stock of the San Diego Electric Railway Company. The \$2,948,000 of bonds when acquired by applicant will be canceled and the mortgage securing their payment discharged of record.

The testimony shows that the refunding of applicant's outstanding bonds through the issue of common stock is a preliminary step looking

toward the reorganization of the financial affairs of San Diego Electric Railway Company.

I herewith submit the following form of order:

ORDER.

San Diego Electric Railway Company, having applied to the Railroad Commission for permission to issue 29,480 shares (\$2,948,000 par value) of its common capital stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that the San Diego Electric Railway Company be and it is hereby authorized to issue and sell, at not less than par, on or before October 1, 1925, 29,480 shares (\$2,948,000 par value) of its common capital stock and to use the proceeds obtained from the issue and sale of such stock to acquire \$2,948,000 of outstanding first mortgage 5 per cent bonds, or issue and deliver such stock to the Oceanic Steamship Company in full payment for said bonds. The authority herein granted is subject to the following conditions:

1. San Diego Electric Railway Company shall keep such record of the issue and sale of the stock herein authorized to be issued and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of April, 1925.

DECISION No. 14789.

RIVERS BROTHERS COMPANY, INCORPORATED,

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2064.

Decided April 15, 1925.

RATES—STEAM RAILROAD—APPLES STORED IN TRANSIT.—Rates on apples moving from Soledad to Los Angeles, when stored in transit at Atascadero, and from

Soledad to Atascadero, are not unjust, unreasonable, unlawful, prejudicial, unduly discriminatory, or in violation of the Public Utilities Act.

Charles Clifford, for Complainant.
F. W. Mielke and L. C. Zimmerman, for Defendant.

SQUIRES, Commissioner.

OPINION.

Complainant in this proceeding is engaged in the sale and distribution of fruits and vegetables and maintains its principal place of business at Los Angeles, California.

It is alleged by complaint filed November 3, 1924, that rates assessed for the transportation of apples, moving from November 10, 1922, to April 30, 1924, both dates inclusive, from Soledad to Los Angeles, when stored in transit at Atascadero, and from Soledad to Atascadero, have been in the past and will be in the future, unjust, unreasonable, unlawful, prejudicial and unduly discriminatory and in violation of the Public Utilities Act, to the extent that they exceeded or may exceed 41½ cents per one hundred pounds from Soledad to Los Angeles, when stored in transit at Atascadero, and 10 cents per one hundred pounds from Soledad to Atascadero.

Reparation is sought. Rates will be stated in cents per one hundred pounds.

A public hearing was held March 25, 1925, at which evidence was offered by both parties and the case, having been submitted, is now ready for an opinion and order.

Soledad and Atascadero are located on the Coast Division of the Southern Pacific lines. Soledad is 328 miles north of Los Angeles and 83 miles north of Atascadero. Atascadero is 245 miles north of Los Angeles.

The shipments involved cover apples grown during the seasons of 1922 and 1923. For the season of 1922 four cars, having a total weight of 201,275 pounds, were forwarded between November 10 and November 25, from Soledad to Atascadero, for storage. The outgoing movement, according to a statement attached to the complaint, between December 22, 1922, and February 7, 1923, showed seven carloads, having a total weight of 293,794 pounds, or 92,519 pounds in excess of the inbound movement. Apples are raised locally at Atascadero and it is, therefore, apparent that the excess outbound tonnage includes apples produced and stored locally, which excess can not be considered as part of the transit movement from Soledad to Los Angeles. For the 1923 season, between September 27 and November 3, inclusive, 31 cars, weighing 1,602,937 pounds, were shipped from Soledad to Atascadero for storage. The outbound movement to Los Angeles between January 3 and April 30, 1924, consisted of 37 cars, having a total weight of 1,477,930 pounds, a shrinkage over the inbound tonnage of

125,007 pounds. Complainant, at the hearing, explained that this was probably due to deterioration and local disposals.

On shipments moving prior to August 16, 1923, defendant applied its established rates of $22\frac{1}{2}$ cents from Soledad to Atascadero, and $35\frac{1}{2}$ cents from Atascadero to Los Angeles, a through rate of 58 cents. The first named factor was the regular class C rate and the latter a commodity rate, applicable from Watsonville to Los Angeles, held as maximum from Soledad.

Effective August 16, 1923, defendant established and thereafter applied to complainant's shipments a rate of 20 cents from Soledad to Atascadero and a rate of $31\frac{1}{2}$ cents from Atascadero to Los Angeles, making a through rate of $51\frac{1}{2}$ cents. These rates apply to apples held in cold storage at Atascadero, but only when reshipped within twelve months after date of arrival at that point. These proportional rates, defendant's witnesses testified, were published to place the Atascadero cold storage plant on an equality with its San Francisco competitors.

The $41\frac{1}{2}$ -cent rate from Soledad to Los Angeles, desired by complainant, applicable to shipments of apples stored in transit at Atascadero, is based on defendant's established rate of $35\frac{1}{2}$ cents in effect for a direct through movement from Soledad to Los Angeles plus a storage in transit charge of 6 cents.

Complainant contends that a 6-cent storage in transit privilege established in certain western states, carried in Western Trunk Line Circular No. 18-E, creates unlawful discrimination by reason of the same privilege not being published in this state. No storage in transit privilege on apples, the record shows, is permitted by carriers in California. But this contention has already been adjudicated, based mainly on differences in conditions, as unsound in law. Transit is a privilege which a carrier may grant or withhold at will and the Commission has no authority to order it extended; but in cases where discrimination is proved by reason of the existence of transit privileges, it may order the discrimination removed. (*Koch et al. vs. Penn. R.R. Co. et al.*, 10 I. C. C. 675.) Moreover, if there were unlawful discrimination in the situation described by complainant it would not be intrastate, and the Interstate Commerce Commission has distinctly held that the existence of transit privileges in one state and their denial in another does not constitute interstate discrimination. (*Globe Grain & Milling Co. vs. A. T. & S. F. Ry. et al.*, 36 I. C. C. 662.) Under the circumstances disclosed by the record in this proceeding, therefore, it can not be held that the refusal of the defendant to provide within California storage in transit on apples, results in unlawful discrimination against, or undue prejudice to, complainant, or that it is otherwise contrary to law.

Complainant stored no apples at Atascadero during the season of 1924, and a statement furnished by defendant shows that none were

forwarded to that point during that season from either Soledad or Watsonville. The cold storage plant at Atascadero is closed at the present time.

The rate of 35½ cents, Soledad to Los Angeles, a distance of 328 miles, is part of an extensive blanket adjustment, the same rate applying from Marysville to Los Angeles, 493 miles, and from Casmalia to Los Angeles, 184 miles. Defendant's witnesses testified that this 35½-cent rate was intended to place apple producers upon a rate equality in the Los Angeles market, and there appears to be no other reason for it. Complainant did not seriously attack this through rate, neither did it make any attempt to prove that the reshipping rate of 31½ cents, Atascadero to Los Angeles, is either excessive or unreasonable.

There now remains for consideration the allegation that the rate of 20 cents, Soledad to Atascadero, applicable only to apples placed in storage at the latter point for reshipment, is unreasonable. The classification rate in California for apples in carloads, between local points, is class C, or 22½ cents between these two stations. The 20-cent rate, effective August 16, 1923, is a commodity rate published especially for the benefit of the Atascadero storage plant. As evidence that the 20-cent rate is unreasonable, complainant presented exhibits giving rates on apples contemporaneously in effect from Stockton to San Francisco, also between various other points in the same general territory; but the rates quoted cover points where there is either water competition, or where the rates were established many years ago to meet cannery requirements. It can not be said that these low rates, published to meet formerly existing conditions now existing in their particular territory, should be a measure for the rates from Soledad to Atascadero, where there are not like circumstances and conditions.

Upon the record established in this case, I am unable to find that the rates assailed were, or will be for the future, unjust, unreasonable, unlawful, prejudicial, unduly discriminatory, or in violation of the Public Utilities Act.

I recommend that an order be entered dismissing the complaint.

ORDER.

This case being at issue upon complaint and answer on file and having been duly heard and submitted by the interested parties, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the complaint in this proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of April, 1925.

DECISION No. 14790.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS COMMON CAPITAL STOCK TO THE PAR VALUE OF TWO MILLION THREE HUNDRED FIFTY-SEVEN THOUSAND DOLLARS AND TO USE THE PROCEEDS FROM THE SALE OF SAID COMMON CAPITAL STOCK IN THE MANNER AND FOR THE PURPOSES SET FORTH HEREIN.

Application No. 10855.

Decided April 15, 1925.

C. P. Cutton and R. W. DuVal, by R. W. DuVal, for Applicant.

DECOTO, Commissioner.

OPINION.

In this application Pacific Gas and Electric Company asks permission to issue and sell, at not less than par, 23,570 shares of its common capital stock, of the aggregate par value of \$2,357,000 for the purpose of financing, in part, the cost of extensions, additions, betterments and improvements to its plants and properties and to those of Mount Shasta Power Corporation.

The application shows that Pacific Gas and Electric Company has an authorized capital stock of \$160,000,000 divided into \$79,900,000 of first preferred stock, \$100,000 of original preferred stock and \$80,000,000 of common stock. On December 31, 1924, there was outstanding in the hands of the public \$41,705,931.67 of the common stock and \$54,404,911.91 of the first preferred stock, a total of \$96,110,843.58. In addition, there is outstanding \$31,696,866.66 of common stock which is held by San Francisco Gas and Electric Company, a corporation whose stock in turn, is held by applicant.

The present request to issue additional common stock is for the purpose of financing construction expenditures on applicant's system and on that of Mount Shasta Power Corporation. In a former proceeding, Application No. 10682, applicant reported unreimbursed expenditures and unexpended balances as of September 30, 1924, and estimated expenditures during the remainder of 1924 and during 1925 for both companies as \$33,552,317.63. For a description of these expenditures, reference is here made to Exhibits "B," "C," "C-1," "D" and "E" attached to Application No. 10682, and to Decision No. 14409, dated December 27, 1924, rendered in that matter.

By Decision No. 14409, the Commission authorized the company to use the proceeds on hand and the proceeds that would be received from the sale of stock and bonds theretofore authorized, to finance, in part, such expenditures. These proceeds were estimated at \$15,698,963.24, which amount consisted of the following:

Receivable from sale of first preferred stock sold to September 30, 1924:

Application No. 6229	-----	\$5,016 00	
Application No. 6585	-----	896 00	
Application No. 7234	-----	696 41	
Application No. 7432	-----	4,329 50	
Application No. 8104	-----	15,601 21	
Application No. 8550	-----	16,536 70	
			\$43,075 82

Receivable from sale of common stock sold to September 30, 1924:

Application No. 10182	-----	\$623,260 59	
Application No. 10361	-----	398,726 83	
			1,021,987 42

Receivable from sale of \$12,500,000 of Series C first and refunding bonds authorized in Application No. 10409	-----	11,812,500 00	
Receivable from sale of \$2,821,400 of common stock authorized in Application No. 10361	-----	2,821.400 00	
Total	-----	\$15,698,963 24	

Deducting the \$15,698,963.24 from the \$33,552,317.63 leaves a balance of \$17,853,354.39. It is to finance part of the \$17,853,354.39 of actual or estimated expenditures that applicant asks permission to issue \$2,357,000 of stock. The order herein will permit the sale of such stock at not less than \$104 per share.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale of stock is reasonably required for the purposes specified herein and that the expenditures herein authorized for such purposes are not in whole or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and sell, on or before April 30, 1926, at not less than \$104 a share, 23,570 shares of its common capital stock of the aggregate par value of \$2,357,000 and to use the proceeds to finance, in part, the cost of the extensions, additions, betterments and improvements referred to in the foregoing opinion, and described in Exhibits "B," "C," "C-1," "D" and "E" attached to Application

No. 10682, provided that only such expenditures as are properly chargeable to fixed capital account under the uniform system of accounts prescribed or adopted by the Railroad Commission may be financed through the use of said proceeds.

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of April, 1925.

DECISION No 14791.

IN THE MATTER OF THE APPLICATION OF C. D. GULICK FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO STAGE SERVICE BETWEEN CITY OF GLENDALE AND YELLOW CAR LINE ON VERDUGO ROAD, CITY OF LOS ANGELES, AND BETWEEN CITY OF GLENDALE AND YELLOW CAR LINE ON TEMPLE STREET AT INTERSECTION OF LAKE SHORE AVENUE, LOS ANGELES.

Application No. 8523.

IN THE MATTER OF THE APPLICATION OF C. D. GULICK FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER AUTO STAGE SERVICE BETWEEN VAN NUYS, LANKERSHIM, HOLLYWOOD, BEVERLY HILLS, LOS ANGELES AND INTERMEDIATE POINTS.

Application No. 8655.

IN THE MATTER OF THE APPLICATION OF C. D. GULICK FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER AUTO STAGE SERVICE BETWEEN GLENDALE, GRIFFITH PARK, NINTH AND OLIVE STREETS, CITY OF LOS ANGELES AND INTERMEDIATE POINTS.

Application No. 8757.

Decided April 15, 1925.

CERTIFICATE—AUTO STAGES—FINANCIAL RESPONSIBILITY.—Financial showing of applicant not being satisfactory, in that the controlling and responsible factor would be a corporation not subject to the jurisdiction of the Commission, the application is denied.

Mattison B. Jones and Bert P. Woodard, for Applicant.

Frank Karr, R. C. Gortner, and O. A. Smith, for Pacific Electric Railway Company, Protestant.

Fred Watson, for Southern Pacific Company, Protestant.

Clyde R. Moody, for Original Stage Line, Protestant.

T. A. Woods, for American Railway Express Company, Protestant.

C. L. McFarland, *H. W. Chase* and *O. T. Helpling*, for Glendale and Montrose Railroad, Protestant.

Warren Libby, for Verdugo Hills Transportation Company, Protestant.

Kidd and Hardy, by *Walter O. Schell*, for Motor Transit Company, Protestant.

R. B. Hill, for Los Angeles Railway Company, Protestant.

Warren E. Libby and *Charles F. Wren*, for Pickwick Stages (Northern Division), Protestant.

BY THE COMMISSION.

OPINION.

Applicant, C. D. Gulick, has petitioned the Railroad Commission for certificates of public convenience and necessity authorizing him to operate passenger automobile stage lines as follows:

1. Between the city of Glendale and yellow car line on Verdugo road, Los Angeles; also between city of Glendale and yellow car line on Temple street at intersection of Lake Shore avenue, Los Angeles;

2. Between Van Nuys, Lankershim, Hollywood, Beverly Hills, Los Angeles, and intermediate points; and

3. Between Glendale, Griffith Park, Ninth and Olive streets, Los Angeles, and intermediate points.

These applications are numbered 8523, 8655 and 8757, respectively.

Public hearings were held on the above applications before Examiner Handford at Los Angeles, at which time the matters were consolidated for the purpose of receiving evidence, were duly submitted and are now ready for decision.

Application No. 8523 describes the routes over which it is proposed to operate, and alleges that existing transportation facilities are inadequate to meet the needs of the public. In a supplemental application, filed February 15, 1923, and an amendment to the supplement, filed May 14, 1923, authority is also requested for operation over certain specified alternate routes.

Applications Nos. 8655 and 8757 both allege that the transportation facilities in the sections which applicant proposes to serve as covered in the respective applications, are inadequate.

With each application there are included exhibits showing proposed rules, regulations, tariffs, time schedules and lists of the equipment to be operated. We will not at this time further comment on the routes and exhibits.

It appears that applicant, C. D. Gulick, has been connected with passenger automobile stage lines in other parts of the state for a number of years and prior to his one and one-half years' residence at Glendale. He was employed about a half-year by that city to study and report on its transportation problems. The city of Glendale contemplated municipal stage lines but abandoned the idea upon their being refused entry into Los Angeles.

About that time C. D. Gulick started the promotion of the Southern Pacific Motor Bus Company (later changed to Pacific Motor Bus Company, and hereafter referred to as such), and the Glendale Motor Bus Company. The Pacific Motor Bus Company was chiefly to be a holding company, engaging in manufacturing, buying, selling and leasing busses. In no way would such company be subject to regulation by this Commission.

It was proposed by Pacific Motor Bus Company to lease equipment to the Glendale Motor Bus Company and to any other companies to be formed, which were to engage in business as common carriers, provided certificates of public convenience and necessity were granted authorizing such operation. The Glendale Motor Bus Company was a copartnership consisting of C. D. Gulick and two others, it being the declared intention to later change to a corporation.

Through stock holdings, C. D. Gulick would control both companies. If certificates were granted as prayed for, then an application to transfer same to Glendale Motor Bus Company would be made and if such were denied, C. D. Gulick would continue the operations.

The authorized capital stock of Pacific Motor Bus Company is \$500,000, divided into \$250,000 preferred stock and the balance common. In March, 1923, the State Corporation Department gave its permission for the issuance and sale of preferred stock, the common, however, being subject to an escrow agreement. At all times C. D. Gulick was to be in control of the company. He was to receive \$250,000 in common stock for his plans, designs, knowledge of the transportation business and for his work of promotion.

Pacific Motor Bus Company entered into a lease with C. D. Gulick under which it was to furnish him all equipment necessary for operation over any routes for which he might obtain certificates. In part, such lease states as follows:

* * * it is the purpose of the lessee (C. D. Gulick) to establish and operate motor busses and stages within the cities of Glendale and Los Angeles, * * * within and between all cities which said lessee has or may hereafter acquire permits to operate. * * * Lessee does not own and is not in a position to purchase motor busses, stages and equipment necessary to operate said bus line, or lines, and does not own and is not in a position to purchase or control the necessary garages, shops, stations and depots for the operation of said bus line, or lines, and desires to enter into an agreement with the lessor (Pacific Motor Bus Company), to lease and rent from it all necessary busses, stages, garages, shops, stations and all other necessary equipment for the successful operation of motor bus lines, * * *

Further provision is made that parties employed in certain positions by lessee must be satisfactory to lessor and at lessor's request these employees may be removed.

The record and lease shows that applicant is not able or willing to finance the undertaking, should the certificates be granted, and the only thing that he would dedicate to public use would be a portion of

his time or that of his organization. Applicant expects Pacific Motor Bus Company to finance him or furnish the equipment. The lease states: "* * * Lessor is able and willing to purchase said equipment as aforementioned." If an applicant may transfer his obligations as herein proposed, it then becomes necessary for this Commission to consider the financial structure of lessor, Pacific Motor Bus Company.

It appears that Pacific Motor Bus Company proposes to and will sell stock to its employees, directors, and the public, to provide the money for the purchasing of all equipment. No cash or assets of any kind were at hand nor had any stock subscriptions been made, or any definite showing of any amounts in which they would be made, although applicant was given every opportunity during the progress of the hearings to enlighten the Commission regarding the financial status and what was proposed to be accomplished, the showing was vague and incomplete.

The success of the stock sales of the corporation appears to rest upon the granting of the certificates as herein prayed for by C. D. Gulick, and if the applications were to be granted, the certificates of public convenience and necessity would be the only tangible evidence of a property right which might be traded in to procure the required equipment.

From the record herein we conclude that applicant has speculated on his ability to obtain certificates of public convenience and necessity; that his financial showing is not satisfactory in that the controlling and responsible factor would be a corporation not subject to the jurisdiction of the Commission. Financial responsibility not having been shown, no other findings are necessary.

We are of the opinion and hereby find as a fact that public convenience and necessity will not be served by the granting of the applications herein and they will therefore be denied.

ORDER.

Public hearings having been held on the above entitled applications, evidence having been received, the matters having been duly submitted, the Commission being now fully advised, and basing its order on the statements and findings of fact as hereinabove set forth in the opinion which precedes this order;

The Railroad Commission of the State of California hereby declares that public convenience and necessity does not require the operation of automobile passenger stage lines by C. D. Gulick nor the granting of the certificates of public convenience and necessity petitioned for in the applications and amendments thereto.

It is hereby ordered, that Applications Nos. 8523, 8655 and 8757 be and the same hereby are denied.

Dated at San Francisco, California, this fifteenth day of April, 1925.

DECISION No. 14794.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AUTHORITY TO CANCEL RATE OF SIX CENTS PER ONE HUNDRED POUNDS ON GRAIN AND GRAIN PRODUCTS FROM STOCKTON ONLY TO SAN FRANCISCO ONLY AND TO PUBLISH IN LIEU THEREOF RATE SEVEN AND ONE-HALF CENTS PER ONE HUNDRED POUNDS, INTERMEDIATE IN APPLICATION.

Application No. 10515.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO CANCEL RATE OF SIX CENTS PER ONE HUNDRED POUNDS ON GRAIN AND GRAIN PRODUCTS FROM STOCKTON ONLY TO SAN FRANCISCO ONLY AND TO PUBLISH IN LIEU THEREOF RATE SEVEN AND ONE-HALF CENTS PER ONE HUNDRED POUNDS, INTERMEDIATE IN APPLICATION.

Application No. 10516.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR AUTHORITY TO CANCEL RATE OF SIX CENTS PER ONE HUNDRED POUNDS ON GRAIN AND GRAIN PRODUCTS FROM STOCKTON ONLY TO SAN FRANCISCO ONLY AND TO PUBLISH IN LIEU THEREOF RATE SEVEN AND ONE-HALF CENTS PER ONE HUNDRED POUNDS, INTERMEDIATE IN APPLICATION.

Application No. 10517.

Decided April 15, 1925.

RATES—STEAM RAILROAD—GRAIN AND GRAIN PRODUCTS—WATER COMPETITION.—

It is the right of a carrier in its own interest to meet competitive conditions but a shipper can not demand that such competition be made the basis of rates not reasonably compensatory, when the carrier in its own behalf does not choose to meet the competition existing in the territory involved. Water compelled rates are not to be taken as a gauge for reasonable rail rates. Rate of $7\frac{1}{2}$ cents, Stockton to San Francisco, found reasonable.

J. F. Bon, for Applicant, Western Pacific Railroad Company.

J. E. Lyons and *H. W. Klein*, for Applicant, Southern Pacific Company.

Berne Levy, for Applicant, Atchison, Topeka and Santa Fe Railway Company.

Seth Mann and *S. A. Everstine*, by *S. A. Everstine*, for the Protestant, San Francisco Chamber of Commerce.

Edson Abel, for Protestant, California Farm Bureau Federation, The San Joaquin County Farm Bureau, and *H. J. Smyth* and others.

J. C. Sommers, for the Protestant, Stockton Chamber of Commerce.

C. S. Connolly, for Albers Bros. Milling Company.

M. J. McCarthy, for Sperry Flour Company.

BY THE COMMISSION.

OPINION.

These proceedings, involving the same issues, were heard together and will be made the subject of one report.

The applications were filed informally, but correspondence developing the fact that there would be opposition from the interested shippers, the proceedings were set for formal action. A hearing was held at Stockton, January 27, 1925, before Examiner Geary and the proceed-

ings having been duly submitted are now ready for an opinion and order.

Applicants seek authority, under section 63 of the Public Utilities Act, for permission to cancel rate of 6 cents per 100 pounds on grain and grain products, nonintermediate in application, from Stockton only to San Francisco only. The rates of the Western Pacific Railroad are published in Tariff 36-F, C. R. C. 257, Item No. 1240-B; Southern Pacific in Tariff No. 793-B, C. R. C. No. 2487, Item No. 180, and Atchison, Topeka and Santa Fe in Tariff No. 11988-D, C. R. C. 506, Item 340-A.

It is proposed to publish in lieu of the 6-cent rate, a rate of $7\frac{1}{2}$ cents, intermediate in application, from Stockton to San Francisco.

Rates will be stated in cents per 100 pounds.

The carriers, in their application, in substance allege that 6 cents is a depressed rate resulting from the rates established many years ago to meet competitive conditions then existing, principally from vessels operating on the inland waters. It has been the general practice of the rail carriers to maintain rates somewhat higher than those of the water carriers, but sufficiently low to attract to the railroads a part of the tonnage. During the past ten years, however, and mainly because of adjustments during the war period, the rates of the boat transportation companies have been changed a number of times, until today their rate is 7 cents, or 1 cent in excess of the nonintermediate rate now in effect via the routes of the three applicants.

Applicants presented eight exhibits dealing with the history of the grain rates from Stockton to San Francisco, comparisons between the rate now in issue and rates on grain between points within California for approximately the same distance haul, and also the grain rates between selected points in the states of Kansas, Minnesota, Iowa, Arizona and New Mexico. The exhibits, as to the points outside the State of California, in every instance showed rates very much in excess of those for the same mileage haul within California, but there is no complete showing in this record of the operating conditions existing in those states and, therefore, the comparisons are of little value. It will not be necessary to here reproduce the exhibits giving rates in their entirety between California grain shipping points, and reference will only be made to a few situations. The rate proposed from Stockton to San Francisco, 91 miles, of $7\frac{1}{2}$ cents, produces a per car-mile earning of 65.5 cents and a per ton-mile earning of 1.6 cents; from Sacramento to San Francisco, where the operating conditions are similar, that is, competition from boat lines, the rate is $10\frac{1}{2}$ cents for a distance of 88 miles, producing a per car-mile earning of 95 cents and per ton-mile earning of 2.3 cents; from Marysville to Port Costa the rate is 14 cents

for a distance of 91.6 miles; Chico to Sacramento rate is 14 cents for 96.3 miles; here also water competition influences the rates. In southern California, where water competition is not a factor, from Rosamond to Los Angeles, 87.5 miles, and from Carpinteria to Los Angeles, 91.7 miles, the rate is $17\frac{1}{2}$ cents. In northern California, from other grain-producing points to the milling and transshipping points, such as San Francisco, Port Costa, Stockton, Sacramento and South Vallejo, the 6-cent rate covers hauls approximating only 50 miles, as contrasted with the 91-mile haul from Stockton to San Francisco.

The three railroads, applicants herein, transport but a very small fraction of the grain tonnage from Stockton to San Francisco, the Southern Pacific Company having handled but 23 carloads in the year 1923, and the Atchison, Topeka and Santa Fe 3 carloads for the first six months of the same year. Applicants assert there is no reason to accord Stockton the rate now in effect; that the same is noncompensatory; also that the $7\frac{1}{2}$ -cent rate proposed is too low for the service performed, but is the best rate that can be established under the existing competitive conditions. It was also shown that while the present rate is 6 cents on intrastate traffic, the rate is 8 cents on interstate traffic, and that the 6-cent rate is used in making combination over Stockton, defeating the through published tariff rates on grain from some few points, especially from stations on the Santa Fe.

Protestants representing the grain producers and the grain buyers directed their opposition, in the main, to the fact that any change in the freight rate would be reflected in the selling price of the grain, which is sold at the quoted San Francisco prices, less the lowest published freight rate from point of shipment to San Francisco, regardless of the actual transportation service employed by the shippers. In this situation the rate today via rail, intrastate, is 6 cents; interstate 8 cents, and via vessel 7 cents. Therefore, the selling price of grain is based on the 6-cent rate. The actual movement, however, of the controlling grain tonnage, Stockton to San Francisco is by boat at 7 cents and not by rail at 6 cents; this because of the many accessorial services performed by the boat, such as the loading and unloading of the grain and direct delivery to ocean-going vessels, making the total costs less, notwithstanding the higher transportation rate.

The test of a reasonable rate can not be measured by the profits or losses of the shipper, for if this element were controlling, rates would necessarily increase or decrease in harmony with the selling price of the commodity transported, a method not employed in the making of reasonable freight rates.

It is the right of a carrier in its own interest to meet competitive conditions, but a shipper can not demand that such competition be made the basis of rates not reasonably compensatory when the carrier in its

own behalf does not choose to meet the competition existing in the territory involved. Water competition may be given by the carriers as a justification for rates that are lower than those otherwise reasonable under normal conditions, and it is also a principle in rate making that water-compelled rates are not to be taken as a gauge for reasonable rail rates.

The proposed rate is shown to be reasonable as compared with rates from other grain shipping points in northern California to San Francisco, Port Costa, South Vallejo, Sacramento and Stockton. The application will be granted.

ORDER.

The petitions of these three applicants having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

It is hereby ordered, that the petitions of said applicants be and the same are hereby granted.

It is hereby further ordered, that the applicants be authorized to publish a rate of seven and one-half ($7\frac{1}{2}$) cents on grain and grain products, intermediate in application, from Stockton to San Francisco, effective on or before May 15, 1925, upon notice to this Commission and to the general public by not less than fifteen (15) days' filing and posting, in the manner prescribed in section 14 (a) of the Public Utilities Act.

Dated at San Francisco, California, this fifteenth day of April, 1925.

DECISION No. 14801.

IN THE MATTER OF THE APPLICATION OF HUNT, HATCH AND COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE VESSELS ON THE INLAND WATERS OF THE STATE OF CALIFORNIA, BETWEEN POINTS ON THE SACRAMENTO AND SAN JOAQUIN RIVERS AND TRIBUTARIES THEREOF, AND ENCINAL TERMINAL, ALAMEDA.

Application No. 10842.

Decided April 15, 1925.

Sanborn, Rochl and DeLancey C. Smith, by *H. H. Sanborn*, for Applicant.

BY THE COMMISSION.

OPINION.

Hunt, Hatch and Company, a corporation, existing by virtue of the laws of the State of California, having its principal place of business at Oakland, California, applies under the provisions of paragraph 4,

section 50, of the Public Utilities Act for a certificate of public convenience and necessity authorizing the operation of vessels for the transportation of property, for compensation, between landings on the Sacramento, San Joaquin, Mokelumne, Old and Middle rivers and the tributaries thereof, on the one hand, and Encinal terminal wharves, located in Alameda, on the Oakland estuary, on the other hand.

The petition shows that applicant now owns and operates a fleet of vessels between landings on the Sacramento, San Joaquin, Mokelumne, Old and Middle rivers and the tributaries thereof, on the one hand, and Oakland and other points in the Oakland estuary, on the other, under rates contained in its Local Freight Tariff No. 7, C. R. C. No. 39; that there has recently been opened large terminal facilities, known as the Encinal terminal, in the city of Alameda, on the Oakland estuary.

The freight rates and charges to be assessed for transportation of freight between the landings on the Sacramento, San Joaquin, Mokelumne, Old and Middle rivers and the tributaries thereof, and the Encinal terminal will be those now in effect from or to Oakland.

A public hearing was held at San Francisco April 13, by Examiner Geary and the matter having been duly submitted is now ready for a decision.

Hunt, Hatch and Company has conducted a common carrier service on the inland waters of California for a number of years, handling principally products of the farm. It now uses a fleet of five vessels plying into Oakland.

The testimony shows that the Encinal terminal has extensive properties in Alameda and a complete terminal service is being organized and developed for the transferring of tonnage between cars and vessels, the refrigerating and cooling of perishables, the sorting and grading of fruits and vegetables, re-coopering and reshipping; in fact, all service necessary and proper for the terminal handling of commerce, not only involving transportation within the State of California, but also between points throughout the world. The acreage controlled will permit of docks approximating two miles in length, and applicant's witness was of the opinion there could be no congestion by reason of local boats using the terminal facilities.

The testimony in the instant case was by stipulation, made a part of the record in Application No. 10843, of Sacramento Navigation Company, and Application No. 10851 of Benjamin Walters (Island Transportation), which applications were heard the same date.

We are of the opinion and find as a fact that public convenience and necessity require the establishment of service between landings on the Sacramento, San Joaquin, Mokelumne, Old and Middle rivers and tributaries thereof on the one hand, and Encinal terminal in the city

of Alameda, located on the Oakland estuary, on the other, as set forth in applicant's petition, and that a certificate should be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, the case having been duly submitted and now ready for a decision, the Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Hunt, Hatch and Company, a corporation, of vessels for the transportation of property, for compensation, upon the inland waters of the State of California, between landings on the Sacramento, San Joaquin, Mokelumne, Old and Middle rivers and tributaries thereof on the one hand, and Encinal terminal, located in the city of Alameda on the Oakland estuary, on the other hand.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions:

Applicant shall file written acceptance of the certificate herein granted within a period not to exceed ten (10) days from the date hereof, and shall file tariffs according to the rules of this Commission, setting forth the rates, rules and regulations governing the transportation of property, which shall be those now in effect between landings on the Sacramento, San Joaquin, Mokelumne, Old and Middle rivers and tributaries thereof, on the one hand, and Oakland, on the other hand, as set forth in Hunt, Hatch and Company's Transportation Department Local Freight Tariff No. 7, C. R. C. No. 39.

Dated at San Francisco, California, this fifteenth day of April, 1925.

DECISION No. 14802.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO NAVIGATION COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE VESSELS UPON THE INLAND WATERS OF THE STATE OF CALIFORNIA BETWEEN POINTS ON THE SACRAMENTO RIVER AND TRIBUTARIES, AND OAKLAND AND ENCINAL TERMINAL.

Application No. 10843.

Decided April 15, 1925.

Sanborn, Roehl and DeLancey C. Smith, by *H. H. Sanborn*, for Applicants.

BY THE COMMISSION.

OPINION.

Sacramento Navigation Company, a corporation, existing under and by virtue of the laws of the State of California, having its principal place of business at Sacramento, California, applies under the provi-

sions of paragraph (d), section 50 of the Public Utilities Act, for a certificate of public convenience and necessity authorizing the operation of vessels for the transportation of property between points now served by applicant on the Sacramento River and its tributaries on the one hand, and points on the western waterfront and estuary waterfront, in the city of Oakland, and Encinal terminal wharves, located in the city of Alameda, on the Oakland estuary, on the other hand.

The petition shows that applicant now owns and operates a fleet of vessels between points on the Sacramento River and its tributaries, and San Francisco and other points on the San Francisco Bay under rates contained in its Local Freight Tariff No. 2-A, C. R. C. No. 5; Local Freight Tariff 3-A, C. R. C. No. 6, and Grain Tariff No. 1, C. R. C. No. 3; that there has recently been opened large terminal facilities known as the Encinal terminal in the city of Alameda, on the Oakland estuary, and that in order to adequately serve the frequent demands of the public, applicant requests authority to arrange for the transportation of freight and cargo to and from the said terminal facilities.

The freight rates and charges to be assessed for transportation of freight between all points will be those now in effect from and to San Francisco.

A public hearing was held at San Francisco, April 13, 1925, before Examiner Geary, and the matter having been duly submitted is now ready for a decision.

A stipulation was entered in the record of Application No. 10842, Hunt, Hatch and Company, heard on the same day as the instant application, and also for a certificate to operate to the Encinal terminal, that the testimony so far as it applies to the terminal would apply to this application. The following is from our decision in Application No. 10842:

The testimony shows that the Encinal terminal has extensive properties in Alameda and a complete terminal service is being organized and developed for the transferring of tonnage between cars and vessels, the refrigerating and cooling of perishables, the sorting and grading of fruits and vegetables, recooling and reshipping; in fact, all service necessary and proper for the terminal handling of commerce, not only involving transportation within the State of California, but also between points throughout the world. The acreage controlled will permit of docks approximating two miles in length, and applicant's witness was of the opinion there could be no congestion by reason of local boats using the terminal facilities.

The testimony in the instant case was, by stipulation, made a part of the record in Application No. 10843 of Sacramento Navigation Company, and Application No. 10851 of Benjamin Walters (Island Transportation), which applications were heard the same date.

We are of the opinion and find as a fact that public convenience and necessity require the establishment of service between points on the Sacramento River and its tributaries, now served by applicant, on the one hand, and points on the western waterfront and estuary waterfront, in the city of Oakland, and Encinal terminal, in the city of Alameda,

located on the Oakland estuary, on the other hand, as set forth in applicant's petition and that a certificate should be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, the case having been duly submitted and now ready for a decision, the Railroad Commission of the State of California hereby declares that public convenience and necessity require the operating by Sacramento Navigation Company, a corporation, of vessels for the transportation of property, for compensation, upon the inland waters of the State of California, between points on the Sacramento River and its tributaries now served by applicant, on the one hand, and points on the western waterfront and estuary waterfront, in the city of Oakland, and Encinal terminal, in the city of Alameda, on the Oakland estuary, on the other hand, as set forth in the application;

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions:

Applicant shall file written acceptance of the certificate herein granted within a period not to exceed ten (10) days from the date hereof and shall file tariffs according to the rules of this Commission, setting forth the rates, rules and regulations governing the transportation of property, which shall be those now in effect between points on the Sacramento River and its tributaries, now served by applicant, on the one hand, and San Francisco, on the other hand, as set forth in Sacramento Navigation Company's Local Freight Tariff No. 2-A, C. R. C. No. 5; Local Freight Tariff No. 3-A, C. R. C. No. 6, and Grain Tariff No. 1, C. R. C. No. 3.

Dated at San Francisco, California, this fifteenth day of April, 1925.

DECISION No. 14803.

IN THE MATTER OF THE APPLICATION OF BENJAMIN WALTERS (ISLAND TRANSPORTATION COMPANY) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE VESSELS UPON THE INLAND WATERS OF THE STATE OF CALIFORNIA, BETWEEN POINTS ON THE SACRAMENTO AND SAN JOAQUIN RIVERS AND TRIBUTARIES, AND ENCINAL TERMINAL, ALAMEDA.

Application No. 10851.

Decided April 15, 1925.

Sanborn, Roehl and DeLancey C. Smith, by H. H. Sanborn, for Applicants.

BY THE COMMISSION.

OPINION.

Benjamin Walters, doing business under the fictitious name of Island Transportation Company, having his principal place of business at

Stockton, California, applies under the provisions of paragraph (d), section 50, of the Public Utilities Act, for a certificate of public convenience and necessity authorizing the operation of vessels for the transportation of property, for compensation, between points on the inland waters of the State of California located on the Sacramento and San Joaquin rivers and tributaries thereof, and on the bay of San Francisco and tributaries thereof now served by applicant, on the one hand, and Encinal terminal wharves located in the city of Alameda, on the Oakland estuary, on the other hand.

The petition shows that applicant now owns and operates a fleet of vessels between points on the inland waters of the State of California located on the Sacramento and San Joaquin rivers and tributaries thereof and on the bay of San Francisco and tributaries thereof, under rates contained in its Local Freight Tariff No. 5, C. R. C. No. 5; that there has recently been opened large terminal facilities, known as the Encinal terminal, in the city of Alameda, on the Oakland estuary.

The freight rates and charges to be assessed for transportation of freight between points on the inland waters of the State of California, located on the Sacramento and San Joaquin rivers and tributaries thereof and on the bay of San Francisco and tributaries thereof now served by applicant, and Encinal terminal, will be those in effect from and to Oakland.

A public hearing was held at San Francisco, April 13, 1925, before Examiner Geary, and the matter having been duly submitted is now ready for a decision.

A stipulation was entered in the record of Application No. 10842, Hunt, Hatch and Company, heard on the same day as the instant application and also for a certificate to operate to Encinal terminal, that the testimony, so far as it applied to the terminal, would apply to this application. The following is from our decision in Application No. 10842:

The testimony shows that the Encinal terminal has extensive properties in Alameda and a complete terminal service is being organized and developed for the transferring of tonnage between cars and vessels, the refrigerating and cooling of perishables, the sorting and grading of fruits and vegetables, recooling and reshipping; in fact, all service necessary and proper for the terminal handling of commerce, not only involving transportation within the State of California, but also between points throughout the world. The acreage controlled will permit of docks approximating two miles in length, and applicant's witness was of the opinion there could be no congestion by reason of local boats using the terminal facilities.

The testimony in the instant case was, by stipulation, made a part of the record in Application No. 10843 of Sacramento Navigation Company, and Application No. 10851 of Benjamin Walters (Island Transportation), which applications were heard the same date.

We are of the opinion and find as a fact that public convenience and necessity require the establishment of service between points on the inland waters of the State of California located on the Sacramento and

San Joaquin rivers and tributaries thereof and on the bay of San Francisco and tributaries thereof now served by applicant, on the one hand, and Encinal terminal, in the city of Alameda, located on the Oakland estuary, on the other hand, as set forth in applicant's petition, and that a certificate should be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, the case having been duly submitted and now ready for a decision, the Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Benjamin Walters, doing business under the fictitious name of Island Transportation Company, of vessels for the transportation of property, for compensation, upon the inland waters of the State of California, between points on the Sacramento and San Joaquin rivers and tributaries thereof and on the bay of San Francisco and tributaries thereof, now served by applicant, on the one hand, and Encinal terminal, located in the city of Alameda, on the Oakland estuary, on the other hand, as set forth in the application.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted subject to the following conditions:

Applicant shall file written acceptance of the certificate herein granted within a period not to exceed ten (10) days from the date hereof and shall file tariffs, according to the rules of this Commission, setting forth the rates, rules and regulations governing the transportation of property, which shall be those now in effect between points on the Sacramento and San Joaquin rivers and tributaries thereof, and on the bay of San Francisco and tributaries thereof now served by applicant, on the one hand, and Oakland, California, on the other hand, as set forth in Island Transportation Company Local Freight Tariff No. 5, C. R. C. No. 5.

Dated at San Francisco, California, this fifteenth day of April, 1925.

DECISION No. 14805.

UNION SUGAR COMPANY

vs.

PACIFIC COAST RAILWAY COMPANY.

Case No. 2113.

Decided April 15, 1925.

BY THE COMMISSION.

OPINION.

The Union Sugar Company, a corporation, with offices in San Francisco, filed complaint March 25, 1925, alleging that rate of \$1.10 per ton assessed and collected by defendant, Pacific Coast Railway Company, for the transportation of 23 carloads of sugar beets moved during period August 28, 1924, to September 2, 1924, from San Luis Obispo to Betteravia, were unjust, unreasonable and in violation of the Public Utilities Act to the extent they exceeded the subsequently established rate of 70 cents per ton of 2000 pounds.

Reparation only is sought.

At the time the aforesaid shipments moved there was in effect from San Luis Obispo to Betteravia rate of $3\frac{1}{2}$ cents per 100 pounds via Southern Pacific and Santa Maria Valley Railroad, the rate being named in Southern Pacific Tariff 707-G, C. R. C. 2810. The defendant herein agreed to publish the same rate via its line as was in effect via the Southern Pacific Company and Santa Maria Valley Railroad, but was unable to effect publication before March 4, 1925. The Commission, in its Informal Reparation Docket No. 32195, authorized the Pacific Coast Railway to refund to the Union Sugar Company on 163 carloads of sugar beets moving September 4, to November 8, 1924, from San Luis Obispo to Betteravia, the difference between the charges collected and those that would have accrued on the basis of 70 cents per ton. The Commission was unable to informally authorize reparation on the 23 carloads here involved, for the reason that the shipments moved more than six months prior to the date the rate to the basis of which reparation is sought was published.

Effective March 4, 1925, the defendant established in its Tariff 32-D, C. R. C. 61, rate of 70 cents per ton of 2000 pounds, applicable to the transportation hereinbefore described.

In answer to this formal complaint, defendant admits all of the allegations and prays that the relief requested by the complainant be granted. Under the issues as they stand, a formal hearing is now unnecessary.

We find that the rate assessed for the transportation of sugar beets, carloads, minimum weight 40,000 pounds, except if car is loaded to capacity actual weight will apply, but not less than 30,000 pounds, from San Luis Obispo to Betteravia during the period, August 28, 1924, to September 2, 1924, was unreasonable and excessive to the extent it exceeded the subsequently established rate of 70 cents per ton; that complainant made the shipments as described in the complaint and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate hereinbefore found reasonable, and is entitled to reparation with interest.

The amount alleged to be due is not set forth in the complaint. Complainant should submit a statement of the shipments to the defendant for check. If it is not possible to reach an agreement, the matter may be referred to this Commission for further consideration and the entry of a supplemental order, should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full information of the matters and things involved having been had and basing its order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the Pacific Coast Railway Company be and it is hereby authorized and directed to refund, with interest, to complainant, Union Sugar Company, all charges it may have collected in excess of 70 cents per ton of 2000 pounds for the transportation of 23 carloads of sugar beets involved in this proceeding, moved during the period, August 28, to September 2, 1924.

Dated at San Francisco, California, this fifteenth day of April, 1925.

DECISION No. 14810.

IN THE MATTER OF THE APPLICATION OF KEY SYSTEM TRANSIT COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE TRANSFER OF APPLICANT'S COMMISSARY ASSETS TO KEY SYSTEM SERVICE COMPANY.

Application No. 10956.

Decided April 17, 1925.

Dunne, Brobeck, Phleger and Harrison, by *W. I. Brobeck* and *Elliott Cook*, for Applicant.

DECOTO, Commissioner.

OPINION.

Key System Transit Company asks permission to transfer and sell to the Key System Service Company all of its commissary assets in consideration of the issuance by Key System Service Company of \$20,000 par value of its authorized capital stock, as fully paid up.

In its Exhibit No. 1, applicant reports the value of the assets which it desires permission to transfer to the Key System Service Company as of February 28, 1925, at \$34,517.85. The properties are described as follows:

Includes cash registers, counters and cigar cabinets and other miscellaneous fixtures at the following stands:

Ferry stand.
South Berkeley Station.
Piedmont Station.

San Pablo avenue and Fortieth street.
Twenty-second and Broadway.
Twenty-second and Grove streets.

Also cash registers and other miscellaneous equipment in news-stands on steamers:

Hayward.
San Leandro.
Yerba Buena.
Claremont.
Fernwood.

Also dishes, silverware, napkins, towels, aprons, curtains, cash registers and other miscellaneous restaurant equipment on the following boats:

Hayward.
San Leandro.
Yerba Buena.
Claremont.
Fernwood.

Also bootblack equipment on each of the above enumerated steamers.
Also cooking utensils of all kinds in kitchen in Ferry building.
Also desks, chairs, counters, shelving, etc., in superintendent's office and storeroom in Ferry building, San Francisco—

Appraised value as of January 1, 1924-----	\$15,000 00
Additions during year 1924-----	399 89

Total -----	\$15,399 89
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Merchandise.

Stock of food supplies, candies, cigars, periodicals, chewing gum, etc., located at storeroom in Ferry building, in restaurants and news stands on various steamers and in news stands at—

Ferry Building.
South Berkeley Station.
Piedmont Station.
San Pablo and Fortieth street.
Twenty-second and Broadway.
Twenty-second and Grove streets.

Inventory as of February 28, 1925-----	19,117 95
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Total -----	\$34,517 84
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Representatives of the Key System Transit Company allege that the transfer of the commissary assets of such company to the Key System Service Company will be in the interest of better management and conduct of applicant's business and operations.

I herewith submit the following form of order:

ORDER.

Key System Transit Company having applied to the Railroad Commission for permission to sell its commissary assets, described in its Exhibit No. 1, to Key System Service Company, a public hearing having been held and the Commission being of the opinion that the application should be granted as herein provided;

It is hereby ordered, that the Key System Transit Company be and it is hereby authorized to transfer and sell to the Key System Service

Company, its commissary assets in consideration of \$20,000 of par value of its common capital stock, fully paid up.

The authority herein granted is subject to the following conditions:

1. The authority to transfer said properties will become effective when Key System Transit Company shall have filed with the Railroad Commission a stipulation duly and legally authorized by its board of directors agreeing that it will not, without the consent of the Railroad Commission, dispose of any stock issued to it by the Key System Service Company in payment of such properties.

2. Under the authority herein granted, no property may be transferred subsequent to August 1, 1925. Key System Transit Company shall file within thirty days after the transfer of the properties, a certified copy of the instrument of conveyance, transferring the title to said properties to Key System Service Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of April, 1925.

DECISION No. 14811.

IN THE MATTER OF THE APPLICATION OF EMERGENCY TRANSPORTATION COMPANY, A CORPORATION, AS TRANSFEROR, AND KEY SYSTEM TRANSIT COMPANY, A CORPORATION, AS TRANSFERREE, FOR AN ORDER AUTHORIZING THE TRANSFER FROM SUCH TRANSFEROR OF ALL OF ITS PROPERTY TO SUCH TRANSFERREE.

Application No. 10968.

Decided April 17, 1925.

Dunne, Brobeck, Phleger and Harrison, by *W. I. Brobeck* and *A. L. Whittle*, for Applicants.

DECOTO, Commissioner.

OPINION.

The Emergency Transportation Company asks permission to sell to the Key System Transit Company the following property:

A line of single track street railway located on Chestnut street, from a connection with the double track street railway of the Key System Transit Company on Eighth street, to terminal at First street, 2176 feet, with a turnout between Seventh and Third streets, 950 feet long, and 3 yard tracks aggregating 880 feet in length, a total of 4006 feet, single track measurements, including all overhead construction, poles, wires and appurtenances in connection therewith, also gates, fences, etc., enclosing terminal, all in the city of Oakland, county of Alameda, State of California, including also all permits and rights in connection therewith.

The properties of the Emergency Transportation Company are now operated by the Key System Transit Company as an integral part of its transportation system. All of the outstanding stock of the Emer-

gency Transportation Company other than shares necessary to qualify directors, is owned by the Key System Transit Company.

The assets and liabilities of the Emergency Transportation Company are reported as follows:

<i>Assets.</i>	
Construction—way and structures.....	\$25,845 64
Construction—general and miscellaneous expenditures.....	442 45
Central National Bank (cash).....	104 95
Total	\$26,393 04
<i>Liabilities.</i>	
Capital stock	\$10,600 00
Premium on capital stock.....	15,793 04
Total	\$26,393 04

The Emergency Transportation Company has agreed to transfer all of its properties to the Key System Transit Company in consideration that the Key System Transit Company assume all of the debts and liabilities of the Emergency Transportation Company. It is of record that at this time the Emergency Transportation Company has no indebtedness.

I herewith submit the following form of order:

ORDER.

Emergency Transportation Company, having applied to the Railroad Commission for permission to sell its properties described in the foregoing opinion to the Key System Transit Company, a public hearing having been held and the Commission having considered the evidence submitted, and being of the opinion that the application should be granted, as herein provided;

It is hereby ordered, that the Emergency Transportation Company be and it is hereby authorized to sell on or before July 30, 1925, all of its properties, more particularly described in the foregoing opinion, to Key System Transit Company in consideration that said Key System Transit Company assume all of the debts and liabilities of said Emergency Transportation Company.

It is hereby further ordered, that within thirty days after obtaining title to the properties of the Emergency Transportation Company, Key System Transit Company shall file with the Commission a certified copy of the instrument under which it has acquired title to such properties.

It is hereby further ordered, that the authority herein granted to transfer properties will become effective upon the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of April, 1925.

DECISION No. 14812.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE RATES AND PRACTICES INVOLVED IN THE SALE OF ELECTRICITY FOR AGRICULTURAL PURPOSES BY WESTERN STATES GAS AND ELECTRIC COMPANY.

Case No. 2075.

Decided April 20, 1925.

J. J. Deuel, L. S. Wing and Edson Abel, for California Farm Bureau Federation and San Joaquin County Farm Bureau.
Chickering and Gregory by Allen L. Chickering and W. C. Fox; Nutter, Hancock and Rutherford by W. B. Nutter, for Western States Gas and Electric Company.

SEAVEY, Commissioner.

OPINION.

The above entitled proceeding was instituted on the Commission's own motion by an order, dated the second day of December, 1924, directing an investigation into the electric rates of Western States Gas and Electric Company, applying in its Stockton Division to electricity sold for agricultural purposes, and into the rules, regulations and practices followed in connection with the sale of electricity to agricultural consumers in the Stockton Division. This action was the result of considerable complaint to the Commission from agricultural consumers.

A public hearing was held in Stockton on January 6, 1925, at which time testimony was taken from various complainants. This hearing brought out the primary causes of complaint although subsequent hearings were held in the Commission's office in San Francisco during which exhibits were filed by both the company and the California Farm Bureau Federation. An informal conference between the interested parties was later held in the Commission's office and the matter then submitted to the Commission for decision.

It appears that the main causes of complaint involve the minimum annual demand charges in Schedule P-3 for three-phase electric motors of one to five horsepower capacity and the past and present extension rule of the company with respect to the basis in which electric line extensions have been and are made.

Complaint in connection with the minimum annual demand charges is the result of a rate approved by the Commission about a year ago that requires three-phase service to be paid for on the basis of a connected load of not less than five horsepower. Under the company's previous rates and rules, consumers, whose three-phase motors, aggregating five horsepower or more, could be served from a single transformer installation, were each charged on the basis of not less than three horsepower, while a single consumer, whose three-phase service required an independent transformer installation, was charged for not less than five horsepower of connected load. While the present rate was designed to eliminate this discrimination, it is apparent that a hardship on consumers of this class has resulted and that the rate should be modified. It seems reasonable, in view of this company's past policy in regard to three-phase service, to reduce the minimum billing to a three-horsepower basis.

Complaint was also made regarding the advance payments required under certain conditions in connection with the construction of line extensions to serve new consumers. Prior to 1920, this company had in effect, a rule for the making of extensions which involved calculations and assumptions of operating expenses, depreciation, return upon investment, etc., that were beyond the full understanding of the average user of electricity. The complaints received were the natural result of such misunderstandings rather than of any deliberate misapplication of the rule or discrimination on the part of the company. For approximately a year, San Joaquin Light and Power Corporation has had in effect a far simpler rule for the making of extensions, which has resulted in a reduction of the number of complaints.

Representatives of the Farm Bureau and of the Western States Gas and Electric Company have agreed on the adoption of such a rule and it seems that this action will do much to better conditions in the future.

The filing of a revised extension rule, the revision of contract forms to conform to the change and the making of adjustments in deposits now held, involve many details that may be adjusted more readily by informal procedure than by formal order. In view of the company's ready agreement to such changes as have been suggested, the order following this decision will not specifically cover these matters, but the Commission will reserve the right to reopen the proceeding for further action if satisfactory adjustments are not made.

I recommend the following order:

ORDER.

The Railroad Commission, having on its own motion instituted an investigation into the electric rates of Western States Gas and Electric Company in its Stockton division, applying to electricity sold for agri-

cultural purposes, and into the rules, regulations and practices followed in connection with the sale of electricity to agricultural consumers in said Stockton division, public hearings having been held, the matter being submitted and now ready for decision:

The Railroad Commission hereby finds as a fact that the electric rates applying to the electric service of Western States Gas and Electric Company in its Stockton division are unjust and unreasonable in so far as they differ from the rates prescribed herein.

Basing its order on the foregoing finding of fact and the findings of fact in the opinion preceding this order;

It is hereby ordered, that:

1. Western States Gas and Electric Company shall charge and collect for agricultural electric service rendered in its Stockton division, in accordance with Schedule P-3, as set forth in Decision No. 13332 (24 C. R. C. 677) and Decision No. 13453 (24 C. R. C. 806) modified in the following particulars:

a. In Rate "A" of Schedule P-3 the words

In no case will the total annual demand charge be less than \$13.20 for single-phase service, nor less than \$30 for three-phase service.

as appearing in Decision No. 13453, shall be amended to read:

In no case will the total annual demand charge be less than \$13.20 for single-phase service nor less than \$19.80 for three-phase service.

b. In Rate "B" of Schedule P-3 the words

In no case will the total minimum charge be less than \$27 per year for single-phase service nor less than \$40 per year for three-phase service.

now appearing in Decision No. 13453, shall be amended to read:

In no case will the total minimum charge be less than \$27 per year.

Such changes to become effective with bills for the first installment of the demand charge under said Schedule P-3 for the year 1925.

2. Western States Gas and Electric Company file with the Commission on or before May 1, 1925, electric Schedule P-3 modified as herein ordered.

3. The Railroad Commission hereby reserves the right to reopen this proceeding in the event that other adjustments referred to in the opinion preceding this order are not made in a manner satisfactory to the Commission.

4. For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of April, 1925.

DECISION No. 14813.

SHELL COMPANY OF CALIFORNIA, A CORPORATION,

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION;
SACRAMENTO NORTHERN RAILROAD, A CORPORATION;
WESTERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 2080.

Decided April 20, 1925.

C. E. Donaldson, for Shell Company of California.*Jas. S. Moore*, for Western Pacific Railroad Company and Sacramento Northern Railroad.*B. Levy*, for Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION.

OPINION.

The complainant, Shell Company of California, with its principal place of business in the city of San Francisco, is engaged in producing, refining and marketing oils and other products of petroleum.

It is alleged, by complaint filed January 3, as amended January 14, 1925, that the rate assessed by defendants for the transportation of two carloads of gasoline, moving January 12 and June 10, 1922, from Martinez to Yuba City, California, was unjust and unreasonable to the extent it exceeded 27½ cents per 100 pounds.

The freight charges on these shipments were paid August 24, 1922, and the shipments were registered with this Commission, January 29, 1924, thus tolling the statute of limitation.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

A hearing was held at San Francisco, April 16, 1925, before Examiner Geary, and the proceeding having been duly submitted, is now ready for an opinion and order.

The rate assessed by defendants was 30 cents per 100 pounds, being a combination of the commodity rates over Sacramento, the factors being, from Martinez to Sacramento, 18 cents, as published in Pacific Freight Tariff Bureau Tariff No. 34-G, C. R. C. 214, of Agent F. W. Gomph, and 12 cents per 100 pounds from Sacramento to Yuba City, published in Sacramento Northern Railroad Tariff 10-A, C. R. C. No. 15.

The instant shipments moved via the Atchison, Topeka and Santa Fe to Stockton, Western Pacific Railroad to Sacramento, and Sacramento Northern Railroad to Yuba City. At the same time there was a rate of

27½ cents via four other routes; viz Southern Pacific direct; Atchison, Topeka and Santa Fe, San Francisco-Sacramento and Sacramento Northern; Atchison, Topeka and Santa Fe, Central California Traction and Sacramento Northern; Southern Pacific and Sacramento Northern. Defendants' shipping department inadvertently forwarded the two carloads here involved under the impression that the rate of 27½ cents to Yuba City applied via the Atchison, Topeka and Santa Fe, Western Pacific Railroad and Sacramento Northern, and did not discover to the contrary until undercharge bills were presented by carriers' agent. Failure to publish the 27½-cent rate via the fifth route over which these cars traveled, appears to have been an oversight on the part of the interested carriers. The rate at the present time via all five routes is 23 cents, which rate became effective May 10, 1923.

The defendant carriers admit all of the allegations of the complaint and pray that the relief requested by complainant be granted.

We find as a fact that the rate of 30 cents per 100 pounds for the transportation of gasoline from Martinez to Yuba City, via the through route of the Atchison, Topeka and Santa Fe Railway, Western Pacific Railroad and Sacramento Northern Railroad in connection with the two cars involved in this proceeding was unreasonable and excessive to the extent it exceeded rate of 27½ cents per 100 pounds; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate found reasonable, and that it is entitled to reparation in the sum of \$30.06.

ORDER.

This case being at issue upon complaint and answer on file, full information of the matters and things involved having been had and basing its order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Atchison, Topeka and Santa Fe Railway Company, a corporation, Western Pacific Railroad Company, a corporation, and Sacramento Northern Railroad, a corporation, be and they are hereby authorized and directed to pay unto complainant, Shell Company of California, a corporation, the sum of \$30.06 as reparation on account of the unreasonable rate exacted for the transportation of two carloads of gasoline moving from Martinez to Yuba City, California.

Dated at San Francisco, California, this twentieth day of April, 1925.

DECISION No. 14814.

CALIFORNIA PACKING CORPORATION

vs.

WESTERN PACIFIC RAILROAD COMPANY AND SACRAMENTO
NORTHERN RAILROAD.

Case No. 2108.

Decided April 20, 1925.

BY THE COMMISSION.

OPINION.

Complainant is a corporation engaged in the packing of dried fruits and canned goods, with its main office at 101 California street, San Francisco.

By complaint filed March 2, 1925, it alleges that during the period, May 2, 1923, to October 30, 1923, both dates inclusive, it shipped and bore the freight charges on twelve carloads of dried fruit from Colusa to San Jose via the rails of the Sacramento Northern Railroad to Sacramento, thence Western Pacific Railroad to San Jose. Charges were assessed at rate of $28\frac{1}{2}$ cents per 100 pounds, based on the combination of $21\frac{1}{2}$ cents from Colusa to Oakland (Pacific Freight Tariff Bureau, F. W. Gomph, agent, Tariff 34-I, C. R. C. 290), plus rate of 7 cents per 100 pounds from Oakland to San Jose (W. P. R. R. Tariff 36-F, C. R. C. 257).

Reparation is sought in the amount of \$462.56.

It is alleged by complainant that the charges via the route over which the shipments moved, should not have been in excess of $21\frac{1}{2}$ cents per 100 pounds, which rate was subsequently established, effective May 17, 1924, in Pacific Freight Tariff Bureau Tariff 34-I, C. R. C. 290.

Defendants' claim, in part, was presented to the Commission informally, Reparation Docket 32217, but since the rate to the basis of the reparation sought was not published within six months subsequent to the date shipments moved, as required under rule 102 of Tariff Circular No. 2, informal reparation authority could not be granted.

Defendants, by formal answer, duly filed, admit all of complainant's allegations. Therefore, under the circumstances, a public hearing will not be necessary.

After due consideration we find that complainant made the shipments as described in Exhibit B, attached to and made a part of the complaint, paid and bore the charges thereon, and that upon carriers' admission that the amount collected was excessive, reparation should be awarded.

We are of the opinion that complainant has been damaged in the amount of the difference between the charges collected and those that

would have accrued at the subsequently established rate of $21\frac{1}{2}$ cents per 100 pounds, and is entitled to reparation in a sum not to exceed \$462.56. Complainant will submit a statement of the shipments to defendants for check. Should it not be possible to reach an agreement, the matter may be referred to this Commission for further consideration and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Western Pacific Railroad Company and Sacramento Northern Railroad, according as they participated in the transportation, be and they are hereby authorized to pay to complainant, California Packing Corporation, all charges they may have collected in excess of $21\frac{1}{2}$ cents per 100 pounds for the transportation of twelve carloads of dried fruit moving during the period, May 10, 1923, to October 30, 1923, both dates inclusive, from Colusa to San Jose, as shown in Exhibit "B," attached to and made part of the complaint, as reparation account unreasonable rate.

Dated at San Francisco, California, this twentieth day of April, 1925.

DECISION No. 14815.

IN THE MATTER OF THE APPLICATION OF LAUREL CANYON LAND COMPANY AND LAUREL CANYON WATER COMPANY, FOR ORDER APPROVING TRANSFER OF PROPERTY AND ESTABLISHING RATES OF WATER SERVICE.

Application No. 10025.

Decided April 20, 1925.

Fred Mansur and Joe Crail, for Applicants.

Geo. L. Hampton, Geo. H. P. Shaw, Hazlett and Albee and C. H. Milliron, for C. H. Milliron and Protestants.

BY THE COMMISSION.

OPINION.

In this application the Laurel Canyon Land Company, which owns and operates a small water system supplying consumers in Laurel Canyon, Los Angeles County, with water for domestic purposes, asks authority to transfer its system to the Laurel Canyon Water Company, a corporation, and also requests an adjustment of its present rate schedule. An amended application was filed in connection with this proceeding, asking for the establishment of a surcharge to cover the

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additional and extraordinary expenses incurred in purchasing and distributing the auxiliary water supply obtained from the city of Los Angeles.

Public hearings in this matter were held before Examiner Satterwhite at Los Angeles, after due notice thereof had been given so that all interested parties might appear and be heard.

At the hearing it was stipulated that the two formal complaints against this water system, Case No. 1937, *George P. Wicker vs. Laurel Canyon Land Company*, and Case No. 1938, *C. H. Milliron vs. Laurel Canyon Land Company*, be combined with this application for hearing, but not for decision.

This water system was installed primarily to aid in the sale of real estate by the Laurel Canyon Land Company. The water has been developed from wells and tunnels situated in various parts of Laurel Canyon, and is pumped directly into the distribution mains, the excess being stored in tanks, which are located at sufficient elevation to furnish adequate pressure over the territory served. At the present time there are only 100 consumers, all of whom are metered. The evidence indicates that the system is very largely overbuilt and still in the development stage.

The following rate schedule at present in effect, was established by the Railroad Commission in its Decision No. 10072, dated February 8, 1922:

Meter Rates.

Monthly minimum charges—

$\frac{5}{8}$ -inch meter	-----	\$1 50
$\frac{3}{4}$ -inch meter	-----	1 75
1-inch meter	-----	2 00
1½-inch meter	-----	2 50
2-inch meter	-----	3 00
3-inch meter	-----	4 00

Monthly meter rates—

From 0 to 400 cubic feet, per 100 cubic feet	-----	\$0 375
From 400 to 1,000 cubic feet, per 100 cubic feet	-----	30
From 1,000 to 5,000 cubic feet, per 100 cubic feet	-----	25
All over 5,000 cubic feet, per 100 cubic feet	-----	20

Monthly Flat Rates.

Residence of 5 rooms or less, occupied by a single family	-----	\$1 25
For each bath tub	-----	25
For each toilet	-----	25
For each additional room	-----	15
Sprinkling or irrigation of lawns, shrubbery, etc., per square yard actually irrigated	-----	005

Meters may be installed at the option of either the consumer or the utility.

During the past several summer seasons the water supply has been entirely inadequate to meet the demands of the consumers. As a result of the Commission's investigations of the conditions existing on this system it was apparent that the canyon source had reached the extreme

limits of its development as a dependable supply and that additional water must be obtained from some other source. Applicant by Decision No. 13098, dated February 1, 1924, was ordered to obtain such other source. Pursuant to a stipulation subsequently entered into between Laurel Canyon Land Company and certain of the consumers who agreed to advance \$3,300 toward the costs thereof, said company was directed by supplemental order of the Commission in Decision No. 13934, dated August 19, 1924, to proceed at once to obtain additional water from the mains of the city of Los Angeles, whose Bureau of Water Works and Supply had very considerably agreed to furnish sufficient water to meet the requirements of the consumers. However, the money which certain of the consumers had agreed to advance was in fact never given and the company was compelled therefore to stand alone the entire financial burden of installing the necessary connections, pipe lines and pumping equipment in order to utilize the water purchased from the city of Los Angeles. This city water must be pumped through approximately 6000 feet of main and raised 325 feet in elevation before it becomes available for use by applicant's consumers. It is to cover this new and additional expense of pumping the city water, which was formerly unnecessary, that a surcharge has been asked through amended application filed by the company.

Estimates of the original cost of this water system were submitted by James E. Barker, engineer for applicant, F. C. Finkle, protestants' engineer, and F. H. Van Hoesen, one of the Commission's hydraulic engineers. A comparison of the most essential elements of the reports submitted by these engineers, is set out below:

	Barker New	Finkle Depreciated	Van Hoesen New
A. Estimated historical cost—			
Land -----	\$25,000 00	-----	\$5,000 00
Other property -----	28,350 00	\$14,056 78*	19,852 00
Totals -----	\$53,350 00	\$14,056 78*	\$24,852 00
B. Depreciation annuity -----	454 00	219 00	451 00
C. Operating expense -----	4,782 00	not submitted	3,450 00

The capital figures set out above do not include the sum of \$5,887 (nor the depreciation annuity thereon), which amount is the cost incurred by applicant in connecting its system with the mains of the city of Los Angeles and the installation of the pumping equipment and facilities necessary in order to distribute the water thus obtained to the consumers. This annuity has been estimated by the Commission's engineer to be \$160. It appears that a total depreciation annuity of \$600 is reasonable.

In view of the fact that this system is considerably overbuilt and as applicant has stipulated that a full return upon the investment was not

*Estimated historical cost, less depreciation.

desired at this time, and for the further reasons appearing below, it will not be necessary, for the purposes of this proceeding, to discuss further the merits of the different valuations submitted or to fix the fair value of the property involved herein.

Applicant's estimate of \$4,782 for maintenance and operating expense includes \$100 per month as salary for superintendent and manager, which with 100 consumers entails a charge of one dollar per month for each water user for these services alone. This amount appears excessive and is more than a system of this size can reasonably pay. Analysis of the operation costs shows that Mr. Van Hoesen's estimate of \$3,450 does not include any allowance for the additional costs of purchasing and pumping water from the Los Angeles city mains, which, according to the evidence, will very closely approximate \$730 per year. A careful consideration of the estimates submitted, indicates that the sum of \$4,200 is a reasonable allowance for the maintenance and operation expenses of this system for the immediate future.

The revenues received from the sales of water for 1924 were \$3,639. It is apparent that applicant's present schedule of rates does not produce sufficient revenues to provide the bare costs of operating, with no provision for depreciation, and that applicant must be given some relief if it is to continue to operate.

There has already been duly formed and authorized by vote of the people an improvement district which includes the entire territory served by applicant, and which, among other things, provides for the extension of the municipal water system to all of the consumers involved herein within a period of not to exceed six months. In all probability the time will be much less. Obviously this means that the present water system will cease to function as such at that time. It is apparent that the scattered location of the houses and the hilly character of the locality with its attendant service difficulties, together with the restrictions imposed by a limited and inadequate supply of gravity and well water, have from the very outset rendered the profitable operation of this water system an economic impossibility.

In view of the limited time in which this utility will continue to serve the public prior to the installation of the municipal water system, it is believed that the company is entitled to and should have a return by way of revenues which will at least cover the actual and reasonable costs of maintenance and operation which the schedule of rates set out in the following order is designed to produce.

The granting of the transfer of the water utility properties of the Laurel Canyon Land Company to the Laurel Canyon Water Company is opposed by certain consumers on the ground that such transfer would jeopardize their rights, for the reason that the water company would have no resources or assets other than the water system. The Laurel

Canyon Water Company has agreed to issue \$49,970 of stock in payment for the water properties, the fair value of which applicants allege in their Exhibit "C" to be \$55,850. However, this allegation is not supported by the evidence. The record in this proceeding does not enable the Commission to properly determine the fair present value of the properties which the Laurel Canyon Land Company asks permission to transfer to the Laurel Canyon Water Company, therefore the request for permission to transfer such properties will be denied without prejudice.

ORDER.

Laurel Canyon Land Company, a corporation, having made application for authority to increase the rates charged for water service delivered to its consumers, and to transfer its properties to the Laurel Canyon Water Company, a corporation, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed thereon:

It is hereby found as a fact that the rates now charged by Laurel Canyon Land Company, a corporation, for water delivered to consumers in Laurel Canyon, Los Angeles County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established, are just and reasonable rates for such service.

Basing the order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Laurel Canyon Land Company, a corporation, be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for all water delivered to its consumers on or after May 1, 1925:

Meter Rates.

Monthly meter rates—

First 400 cubic feet or less	\$1 75
From 400 to 1,500 cubic feet, per 100 cubic feet	40
From 1,500 to 5,000 cubic feet, per 100 cubic feet	35
Above 5,000 cubic feet, per 100 cubic feet	30

Minimum monthly charges—

$\frac{5}{8}$ -inch meter	\$1 75
$\frac{3}{4}$ -inch meter	2 25
1-inch meter	3 00
1 $\frac{1}{2}$ -inch meter	6 00
2-inch meter	9 00
3-inch meter	18 00

It is hereby further ordered, that the request of Laurel Canyon Land Company, a corporation, for authority to transfer its water system to Laurel Canyon Water Company, a corporation, be and the same is hereby denied, without prejudice.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twentieth day of April, 1925.

DECISION No. 14816.

IN THE MATTER OF THE JOINT APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY, A CORPORATION, AND NAPA VALLEY ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FORMER TO SELL AND CONVEY AND THE LATTER TO PURCHASE AND ACQUIRE THE PROPERTIES HEREIN MENTIONED.

Application No. 10972.

Decided April 20, 1925.

BY THE COMMISSION.

OPINION.

California Telephone and Light Company and Napa Valley Electric Company join in this application, asking that the Railroad Commission authorize the transfer by the former to the latter of an electric distribution line located near Bale Station, Napa County, and more particularly described in an exhibit attached to the application.

It appears that the particular line referred to, although now owned by California Telephone and Light Company, is located in territory which is otherwise served with electricity by Napa Valley Electric Company and that the purpose of the transfer is to avoid future disagreements and to prevent the duplication of facilities.

An examination of the rate schedules of the two companies now on file with the Commission, shows that in general the rates of the Napa Valley Electric Company are lower than those of the California Telephone and Light Company. The transfer will therefore not only prevent duplication and avoid friction between the companies, but it will not work any hardship upon the consumers attached to the line in question.

The parties have agreed upon a price of two thousand, four hundred eighty-seven dollars (\$2,487), upon which the transfer is to be made.

ORDER.-

California Telephone and Light Company and the Napa Valley Electric Company, having applied to the Railroad Commission for an order authorizing the sale by the former to the latter of certain electric distribution facilities, more particularly described in said application,

the Railroad Commission being of the opinion that such transfer should be authorized and that public hearing is not necessary;

It is hereby ordered:

1. That California Telephone and Light Company be and it is authorized to sell and Napa Valley Electric Company to purchase a certain electric distribution line located near Bale Station, Napa County, and more particularly described in the application in this matter.

2. That California Telephone and Light Company is authorized to cease furnishing electric service to the public in the territory now supplied by said electric distribution line.

3. That the consideration at which this conveyance is made is approved for the purpose of this transfer only and shall not be urged as a finding by this Commission of the value of the property herein authorized to be transferred.

4. That this authority shall apply only to such transfer as may be made on or before June 30, 1925.

5. The authority herein granted shall take effect from the date hereof.

Dated at San Francisco, California, this twentieth day of April, 1925.

DECISION No. 14817.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND USE FOR SINKING FUND PURPOSES OF FIVE HUNDRED FORTY-EIGHT THOUSAND DOLLARS PAR VALUE OF ITS SERIES "I" BONDS.

Application No. 10951.

Decided April 20, 1925.

Paul Overton, for Applicant.

BY THE COMMISSION.

OPINION AND ORDER.

Los Angeles Gas and Electric Corporation asks permission to issue \$548,000 of its general and refunding mortgage Series "I" 5½ per cent bonds, due October 1, 1949. It is the company's intention to deliver these bonds to the trustee under its general and refunding mortgage to meet, in part, a sinking fund payment due May 1, 1925. It is of record that the total sinking fund payments, due on that date, amount to \$548,441.25. Of this amount the company will pay \$548,000 in bonds and \$441.25 in cash.

The testimony shows that applicant's outstanding bonds represent about 56 per cent of its investment in properties, its outstanding stock about 34 per cent, and its surplus, reserve for accrued depreciation and miscellaneous items, about 10 per cent.

Applicant's general and refunding mortgage permits the company to make sinking fund payments either in cash or in bonds which the trustee is to accept at par.

A public hearing having been held before Examiner Fankhauser and the Commission having considered the evidence submitted at such hearing, and being of the opinion that this application should be granted;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue and sell at not less than par, on or before June 15, 1925, \$548,000 of its general and refunding mortgage Series "I" 5½ per cent bonds, due October 1, 1949, or deliver such bonds, or the cash received from the sale thereof, to the Security Trust and Savings Bank, for the purpose of depositing same in the sinking fund created under said mortgage.

The authority herein granted is subject to further conditions as follows:

1. Los Angeles Gas and Electric Corporation shall keep such record of the issue of the bonds herein authorized as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of such order.

2. The authority herein granted to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$548.

Dated at San Francisco, California, this twentieth day of April, 1925.

DECISION No. 14824.

IN THE MATTER OF THE APPLICATION OF DAVID L. PETERS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE VESSEL FOR THE TRANSPORTATION OF PROPERTY, FOR COMPENSATION, BETWEEN POINTS UPON THE INLAND WATERS OF THE STATE OF CALIFORNIA.

Application No. 10493.

Decided April 20, 1925.

CERTIFICATE—TRANSPORTATION—INLAND WATER CARRIER.—No complaint against the rates or service of existing transportation companies having been shown, and no public necessity for the proposed service existing, application is denied. The Commission has held and the law requires, that a showing of public convenience and necessity be made by applicant, and that a certificate can not be granted solely upon the ground that applicant desires to establish a service in competition with existing carriers.

Applicant David L. Peters, *pro se*.

Sanborn, Roehl and DeLancey C. Smith, by *H. H. Sanborn*, for Protestants, Bay Cities Transportation Company, Sacramento Navigation Company, Erikson Navigation Company, Island Transportation Company, California Transportation Company, California Navigation and Improvement Company.

BY THE COMMISSION.

OPINION.

This is an application by David L. Peters under the provisions of paragraph (d), section 50, of the Public Utilities Act, for a certificate of public convenience and necessity to operate vessel for the transportation of property, for compensation, upon the inland waters of the State of California between points on the San Francisco Bay and its tributaries and landings on the various rivers and their tributaries, to and including Stockton and Sacramento, as per Exhibit "B," attached to and made part of the application.

A public hearing was held at San Francisco, April 14, 1925, before Examiner Geary, and the application having been submitted is now ready for an opinion and order.

Applicant is the owner of a boat named *Utility* of 85-horsepower and 100-ton capacity, which it is proposed to operate on an irregular schedule at the call and demand of shippers. The rates proposed are identical with those now carried in tariffs of certified common carriers between points in the same territory. The only witness was applicant himself, who testified that he now leases or rents his power boat *Utility* for special trips, either to common carrier lines or to individual firms, by the day or trip; that he has made a check of the territory and has found there is need for more boats and service than now being rendered by existing lines and that he desires to serve as a common carrier at published rates.

The granting of the application as herein proposed was protested by Bay Cities Transportation Company, Sacramento Navigation Company, Erikson Navigation Company, Island Transportation Company, California Transportation Company and California Navigation and Improvement Company. No complaint against the rates or the service of the existing transportation companies appears in the record herein, and it appears no public necessity exists for the service as proposed. The main ground for issuance of the certificate as applied for, appears to be only the desire of applicant to enter into the transportation business.

The Commission on a number of occasions has held, and the law requires, that a showing of public convenience and necessity must be made by applicant for certificate and that a certificate could not be granted solely upon the ground that applicant desires to establish a service in competition with existing carriers.

We have no doubt that the public will receive more reliable service, at reasonable rates, from established responsible companies who are permitted to earn a return on their investment, then by permitting indiscriminate competition, which will weaken the financial situation of each of the competitors.

We are of the opinion that no showing has been made in this proceeding justifying the granting of the application, and an order will be entered accordingly.

ORDER.

A public hearing having been held, testimony submitted, and the Commission being fully advised;

It is hereby ordered, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this twentieth day of April, 1925.

DECISION No. 14825.

IN THE MATTER OF THE APPLICATION OF FRANK OWENS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO FREIGHT TRUCK SERVICE BETWEEN POMONA, RIVERSIDE, SAN BERNARDINO, BEAUMONT, SAN JACINTO, LOS ANGELES, CORONA, SANTA ANA, HUNTINGTON BEACH, LAGUNA, LONG BEACH, WILMINGTON, SAN PEDRO, SAN FERNANDO AND INTERMEDIATE POINTS.

Application No. 10705.

Decided April 20, 1925.

Hugh Gordon, for Applicant.

Devlin and Brookman, by *Douglas Brookman*, for Hodge Transportation System, San Fernando Haulage Company, Keystone Express, Service Motor Express and Vance Truck Company, Protestants.

T. A. Woods, for American Railway Express, Protestant.

R. E. Wedekind, for Pacific Electric Railway and Southern Pacific Company, Protestants.

C. H. Tribit, Jr., for Coachella Valley Transportation Company, Protestant.

B. N. Tucker, for Pioneer Truck and Transfer Company, Protestant.

F. W. Granger, for Granger Truck Service, Protestant.

T. C. Whitlock, for Stacey's Transfer Company, Protestant.

E. T. Lucey, for The Atchison, Topeka and Santa Fe Railway, Protestant.

BY THE COMMISSION.

OPINION.

Frank Owens has made application to the Railroad Commission for a certificate of public convenience and necessity to establish service for the transportation of freight between Pomona, Riverside, San Bernardino, Beaumont, San Jacinto, Los Angeles, Corona, Santa Ana, Huntington Beach, Laguna, Long Beach, Wilmington, San Pedro, Pasadena, San Fernando, and intermediate points, and five (5) miles on either side of the highway traversed.

A public hearing herein was conducted by Examiner Williams at Pomona.

Applicant proposes operation on demand only, with twenty-four hours' notice required, in quantities of two tons or more, over five routes terminating at San Bernardino, San Jacinto, San Pedro, Long Beach

and San Fernando. No schedule of operation is proposed. Applicant offers as equipment, three trucks of nine tons' gross tonnage and two trailers of three tons' gross tonnage. Rates proposed in the application by Exhibit "A" are based upon hour use, but at the hearing, applicant by permission, amended this offer by substituting tonnage rates for distance transported, graduating from a rate of \$1.50 for a distance of twenty (20) miles or less, to \$4 for a distance of fifty-nine (59) miles.

According to the testimony of applicant, he has been conducting a general trucking service in Pomona since the fall of 1914, beginning with one truck and a two-horse wagon. Continuously since then he has transported property to and from most of the points applied for upon an hourly basis of rates, although no rates have ever been filed by applicant with this Commission. Testimony of applicant and of other witnesses, as it appears in the record, is such that the fact is established that this transportation was so sporadic and infrequent as not to constitute a transportation business as defined in chapter 213, acts of 1917, as amended, except with reference to transportation between Colton and Pomona and between Los Angeles and Los Angeles harbor and Pomona. For this reason it is unnecessary to discuss testimony as to most of the hauls to other points, as this testimony discloses no operation conducted or proposed that requires or justifies the issuance of a certificate.

At the beginning of the hearing, applicant stipulated that no certificate is sought that does not contemplate Pomona as the point of origin or destination of any haul. The fact that applicant has performed continuous services for approximately ten years between Colton and Pomona, and between Los Angeles and Pomona, was sustained by the testimony of C. C. Condit, manager of the Kerekhoff-Cuzner Lumber Company; Harry Hinman, of E. Hinman and Sons, Pomona; John W. Mashmeyer, Clover Leaf Products Company, dealers in beverages, Pomona branch; F. H. Owens, electrical motor repairs, Pomona; Philip J. Curran, lumber and building materials, Pomona; D. W. Anderson, dairyman, Pomona; W. A. Evans, Pasadena-Sunset Canning Company; John Findley, feed and fuel, Pomona, and W. T. Fleming, Pomona Cigar Company. Their testimony was, also, that they still require and will use applicant's services.

In addition, protestants L. R. Kagerise of the Keystone Express and T. K. Vance of the Vance Truck Line, testified that they had known for a great many years of the hauling being done by applicant—approximately the period indicated by applicant. Vance testified that he made complaint to this Commission as to the operations of applicant between Pomona and Los Angeles because applicant was hauling groceries from Los Angeles consigned to W. L. Wright, wholesale grocer of Pomona, which transportation had previously been performed by

Vance. Applicant testified that he had been hauling merchandise for Wright since 1914, and with increasing frequency.

The record is clear that applicant has been performing transportation service between Los Angeles and Los Angeles harbor and Pomona, and between Colton and Pomona, practically ever since 1915; that originally such transportation was infrequent, but that in the last five years the frequency has accelerated, until, at the present time, applicant is making trips between Los Angeles and Pomona on an average of six times monthly, and between Colton and Pomona about as frequently. However, pending action upon the present application, applicant has desisted from this service between the points named.

Witnesses testified, in general, that the shipments which applicant has transported for them, and for which they deem his service is now required, were largely emergency matters; that the bulk of their shipping is done by rail, most of them having spur tracks at their places of business; that the movement from Colton to Pomona is almost wholly of cement, with very little, if any, movement from Pomona to Colton; that the movement from Los Angeles and Los Angeles harbor consists of lumber, fuel briquets, heavy hardware, building material, groceries, canned goods, sugar in bags and bottled drinks.

Protestant Hodge Transportation System, which is authorized to conduct demand transportation between nearly all of the points sought by applicant, has no office or agent at Pomona. Empty trucks of this carrier pass daily through Pomona, according to the testimony of F. M. Hodge. He also testified that trucks could be made available to shippers at Pomona on four hours' notice, and that ninety-six (96) pieces of equipment are available.

L. R. Kagerise, owner of protestant Keystone Express, established in 1916, has in use eleven trucks and five trailers, the capacity of which is not used by shippers. The main office and terminal are in Pomona and joint rates between Pomona and Los Angeles harbor are established.

Protestant F. W. Granger specializes in transporting cement and building material and has headquarters in Pomona. He has three trucks and two trailers and has bought another truck and trailer. This protestant testified that he could handle all cement shipments from Colton to Pomona. His rate for such haul is \$2.10 per ton.

Vance Truck Line, established in 1916, between Pomona and Los Angeles, has an office and agent at Pomona and uses four trucks in its business, which are not always used to capacity, according to the testimony of T. K. Vance.

Protestant Southern Pacific Company operates two local L. C. L. freights and a car-load train daily between Los Angeles and Pomona, breaking bulk in the deliveries by night service at 6 a.m. The day local reaches Pomona about noon.

Other protestants do not serve Pomona or Colton. All protestants emphasized their belief that applicant can not operate profitably at the rates proposed by him, which are lower than protestants' on practically all commodities. Applicant responded with the statement that the distance rates proposed are practically the same as the hour basis on which he has subsisted for ten years, and that his business has been profitable.

The record sustains the conclusion that applicant herein, since the period prior to May 1, 1917, and to the present time, has been conducting business as a common carrier of property between Pomona and Colton and between Pomona and Los Angeles and Los Angeles harbor points. That this business has been conducted without certificate seems to have been wholly due to the mistaken belief of applicant that no certificate was required. During all these years no complaint was made by other carriers. When complaint was made, applicant discontinued service and sought immediately to comply with the law by filing application herein. A review of the record is satisfying that applicant's services in transporting cement and lime between Pomona and Colton, and these and other commodities between Pomona and Los Angeles, on demand, in quantities of two or more tons, are reasonably required by a substantial portion of the public, and that a certificate authorizing such service should be granted. In all other respects the application should be denied.

ORDER.

Frank Owens having made application to the Railroad Commission for a certificate of public convenience and necessity to establish service for the transportation of freight between Pomona, Riverside, San Bernardino, Beaumont, San Jacinto, Los Angeles, Corona, Santa Ana, Huntington Beach, Laguna, Long Beach, Wilmington, San Pedro, Pasadena and San Fernando, and intermediate points, and five (5) miles on either side of the highway traversed, a public hearing having been held, the matter having been duly submitted and now being ready for decision.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment of service as proposed by applicant herein for the transportation of commodities listed in applicant's amended Exhibit "A" attached to application, between Pomona and Los Angeles and Los Angeles harbor, without intermediates, and between Pomona and Colton for cement and lime only, without intermediates, over and along the following routes:

Via Valley Boulevard to Colton; and

Via Los Angeles-Pomona Boulevard to Los Angeles and Wilmington and San Pedro (Los Angeles harbor); and

It is hereby ordered, that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to the following conditions:

I. Applicant shall, within twenty (20) days from the date hereof, file with this Commission his written acceptance of the certificate herein granted; shall file, in duplicate, time schedules and tariff of rates identical with those as set forth in Exhibit attached to the application herein within a period of not to exceed twenty (20) days from date hereof; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

II. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

III. No vehicle may be operated by applicant under the authority hereby granted unless such vehicle is owned or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is further ordered, that in all other respects the application herein be and the same hereby is denied.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this twentieth day of April, 1925.

DECISION No. 14827.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR AUTHORITY TO ABANDON AND REMOVE ITS TRACKS ON EAST ORANGE GROVE AVENUE, LOS ROBLES AND CALIFORNIA STREETS, WEST COLORADO STREET AND VILLA STREET IN THE CITY OF PASADENA, CALIFORNIA.

Application No. 10992.

Decided April 20, 1925.

BY THE COMMISSION.

ORDER.

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the abandonment and removal of certain street car tracks in the city of Pasadena.

The tracks herein proposed to be abandoned and removed are specifically described as follows:

(1) That certain single track line approximately 575S feet in length, commencing at the switch point in the east track on Lake avenue just south of East Orange Grove avenue; thence northeasterly along a curve concave southeasterly to a point in East

Orange Grove avenue; thence easterly along East Orange Grove avenue to a point a short distance west of Allen avenue; and

(2) Commencing at the switch points on Colorado street just west of the center line of Los Robles avenue; thence southeasterly and southerly along double track, a distance of 378 feet to the beginning of single track on Los Robles avenue; thence southerly along single track on Los Robles avenue and California street, a distance of 3376.7 feet to the beginning of double track just east of Los Robles avenue; thence easterly along double track on California street 2493.2 feet to the switch point just west of Lake avenue; thence easterly along single track on California street 176.5 feet to the beginning of double track just east of Lake avenue; thence easterly along double track on California street, 1567.6 feet to the beginning of single track; thence continuing along single track on California street 318.2 feet to the end of said track; including curve connections at California street and Lake avenue.

Also, commencing at the switch points on Colorado street just west of the center line of Los Robles avenue; thence northeasterly and northerly along double track 407.25 feet to the beginning of single track on Los Robles avenue; thence northerly along single track on Los Robles avenue, a distance of 4564.2 feet to the beginning of double track; thence continuing northerly along double track on Los Robles avenue 409.9 feet to the beginning of single track; thence continuing northerly along single track on Los Robles avenue, 3015 feet, more or less, to a point just south of Washington street; and

(3) Commencing at a point in the single track on Colorado street, approximately 50 feet westerly from the beginning of double track just west of Vernon avenue; thence easterly along said single track, 50 feet, more or less; thence easterly along double track on Colorado street, a distance of 1780 feet to a point approximately 12 feet east of the center line of Fair Oaks avenue; and

(4) Commencing at the switch point on Los Robles avenue just south of Villa street; thence northeasterly along a single track curve concave southeasterly, a distance of 179 feet to the beginning of double track on Villa street; thence easterly along double track on Villa street a distance of 2483.6 feet to a switch point just west of Lake avenue; thence easterly and northeasterly along single track on Villa street and Lake avenue, 141.41 feet to a connection with the west track on Lake avenue.

The above described tracks being more particularly shown in purple color on a blue print map marked "C.E.5931-f" as attached to and forming a part of the application herein.

The tracks herein proposed to be abandoned are not now used for street car operation and have not been so used since the suspension of street car service and the substitution of motor coach service upon various routes in the city of Pasadena under the provisions of Ordinance No. 2130 of the city of Pasadena and adopted July 9, 1923, said ordinance having been adopted following approval of the plan of substituted service as contained in this Commission's Decision No. 12151 as decided May 29, 1923.

Applicant alleges that the substituted motor coach service has proven satisfactory to the city of Pasadena and that it is now the desire of said city that the rails be removed; that street improvements are now contemplated by the city of Pasadena along the routes where abandonment is herein requested and that if the rails are not removed, large expenditures will be required of applicant in the matter of maintenance, replacement and street work.

The board of directors of the city of Pasadena by its Ordinance No. 2328 under date January 27, 1925, has consented to the abandonment of electric railway service over the routes herein sought, and to

the removal of the tracks, such authorization subject to, and to be effective upon, the approval of this Commission. A certified copy of the ordinance has been filed herein as a portion of the application.

The Commission being fully advised and of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted;

It is hereby ordered, that applicant, Pacific Electric Railway Company, a corporation, be and the same hereby is authorized to abandon and remove its tracks and appurtenances thereto as heretofore maintained and operated on the certain streets and avenues in the city of Pasadena as hereinabove specifically described.

Dated at San Francisco, California, this twentieth day of April, 1925.

DECISION No. 14832.

IN THE MATTER OF THE APPLICATION OF SOUTH SAN FRANCISCO BELT RAILWAY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO INCREASE ITS RATES FOR SWITCHING CARLOAD TRAFFIC AT SOUTH SAN FRANCISCO, CALIFORNIA.

Application No. 10829.

Decided April 21, 1925.

Sanborn, Roehl and DeLancey C. Smith, by *A. B. Roehl*, for Applicant.
E. W. Hollingsworth and *Bishop and Bahler*, by *E. W. Hollingsworth*, for Pacific Coast Steel Company and Growers Rice and Milling Company.
Seth Mann, for San Francisco Chamber of Commerce.

SQUIRES, Commissioner.

OPINION.

The applicant, South San Francisco Belt Railway, a corporation, with its principal place of business at South San Francisco, California, has petitioned, in accordance with section 63 of the Public Utilities Act, for authority to increase from \$3.50 to \$4 per car its charge for switching freight of any description, regardless of weight, between the transfer track with Southern Pacific Company and wharves or industries served by South San Francisco Belt Railway at South San Francisco, and between industries or wharves within its yard limits; also to publish a new item, and thereafter to maintain and collect a detention charge of \$1 per day, or fraction thereof, for each car, except stock or private cars, actually held by consignors or consignees and used for interplant or intraplant switching.

A public hearing was held March 18, 1925, when evidence was given and the case having been duly submitted is now ready for an opinion and order.

South San Francisco Belt Railway, hereinafter referred to as the Belt Line, was incorporated November 2, 1907, under the laws of the

State of California. It serves numerous industries on its line and has 3.192 miles of standard gauge track, one steam locomotive, machine shops, tools, equipment, and other property necessary to properly render common carrier service.

A statement attached to the application shows that as of December 31, 1924, its property and equipment had a book value of \$84,202.02. The record also shows that the Interstate Commerce Commission, as of June 30, 1916, fixed the reproduction cost of its property and equipment at \$82,064 and the reproduction cost, less depreciation, at \$65,590.

During the year 1924, applicant collected \$50,865.50, charges for switching 14,533 cars at \$3.50 per car, and demurrage in the amount of \$627, making a total of \$51,492.50, while its total expenses were \$54,728.21, a net loss of \$3,235.71. For the years 1920, 1921 and 1922 its net loss was \$21,229.81, \$11,685.84, and \$744.17, respectively. For the year 1923 there was a net gain of \$1,205.37. This appears to be the only year in the Belt Line's history that a profit has been shown. The total deficit as of December 31, 1924, was \$47,833.40, accumulated since the commencement of operations.

Based on operating results obtained during the calendar year 1924, the Belt Line's revenue for the entire year 1925 by the adoption of the proposed increase would be augmented \$7,893.50, producing a net profit of approximately \$4,500. However, applicant's witness testified that this amount would probably be eliminated by the increased cost of fuel oil, which, under prevailing prices, would amount to approximately \$4,000 more for the year 1925 than was expended during the year 1924. In addition, he stated that the traffic handled during the first two months of 1925 was 300 cars less than during the same months in 1924.

The Belt Line owns no rolling stock, with the exception of one locomotive, hence is dependent upon the use of other carriers' cars. For each day, or fraction thereof, that applicant retains such cars in its possession, there is assessed a per diem charge of \$1 per car. On cars used in line haul traffic the Belt Line receives a free time allowance of two days, but for cars used in interplant or intraplant switching, no free time allowance is made.

The testimony indicates that the proposed detention charge of \$1 per car per day for cars used in interplant or intraplant switching will not materially increase applicant's revenue, but will probably offset the per diem charge assessed against the Belt Line by the car-owning companies.

In applying this detention charge in the future, applicant asks permission to exempt stock and private cars, on the ground that such cars

are controlled by National Car Demurrage Rules and are exempt from demurrage when under load. But there is a marked difference between detention and demurrage charges, though the reasons for imposing both may be analogous, and in considering this proposal it seems clear to me that to grant applicant's request would produce undue discrimination between the owners of private cars using its line and other shippers. One of the main purposes of the Public Utilities Act is to secure service by railroads to all persons similarly circumstanced without allowing undue advantage to any, and if private cars moving on applicant's line are exempt from detention charges and other cars are burdened with such a charge, some shippers are certainly given an advantage over others doing business under similar conditions. Handling private cars on railroads has been the subject of considerable litigation, in most of the cases the owners of such cars seeking advantages over other shippers, but the courts in interpreting the statutes have uniformly endeavored to place the owners of private cars on an equality with other shippers who, from the nature of their business can not afford to own such cars. (*P. C. C. & St. L. Ry. vs. Freedom Oil Works*, 247 Fed. 573, cases cited, and *Swift Co. vs. Hocking Valley Ry. Co.*, 243 U. S. 287.) It is my conclusion, therefore, that to differentiate between private cars handled on its line and other cars, as proposed by applicant, would produce unlawful discrimination and that in this respect its request should be denied.

Applicant submitted in evidence, letters from the officers of The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Company and Western Pacific Railroad Company, signifying that those lines are willing to and will, in case the increase applied for is granted, absorb the increased switching charge of \$4 exactly as they now absorb the present charge of \$3.50.

It is thus evident from the testimony that the proposed increases will result in comparatively small contributions annually from the industries located on the Belt Line, for the reason that where the switching charge is incidental to a line haul the charge will be absorbed by the connecting carriers. Applicant's witness estimated that approximately 90 per cent of the cars handled by the Belt Line are incidental to a line haul.

After giving consideration to all the testimony and exhibits, I am of the opinion that the application should be granted, subject to the following conditions: That The Atchison, Topeka and Santa Fe Railway Company, the Southern Pacific Company, and the Western Pacific Railroad Company will absorb the increased switching charge in the same manner they now absorb the present charge; that provision for such absorption shall be published and made effective concurrently with applicant's increased switching charge and that detention charges, if

imposed at all, shall be uniformly imposed on all cars which receive switching service on applicant's line.

I recommend the following form of order:

ORDER.

This application having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and conclusions contained in the opinion, which opinion is hereby referred to and made a part hereof;

It is hereby ordered, that South San Francisco Belt Railway be and it is hereby authorized to establish, on fifteen (15) days' notice to this Commission and to the public, a charge of \$4 per car for switching freight of any description, regardless of weight, between its transfer track with the Southern Pacific and wharves or industry tracks, and between wharves and industries served by it at South San Francisco, provided The Atchison, Topeka and Santa Fe Railway Company, the Southern Pacific Company, and the Western Pacific Railroad Company will publish and concurrently make effective in their respective tariffs the same provision for absorption of the increased switching charge herein authorized as is now in effect for the absorption of the present switching charge.

It is hereby further ordered, that the South San Francisco Belt Railway be and it is hereby authorized to establish, upon fifteen (15) days' notice to this Commission and to the public, a detention charge of \$1 per car per day on all cars for which switching service is performed on its line.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of April, 1925.

DECISION No. 14833.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, AND MOUNT SHASTA POWER CORPORATION, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE EXECUTION OF A SUPPLEMENTAL INDENTURE TO APPLICANTS' FIRST AND REFUNDING MORTGAGE, DATED DECEMBER 1, 1920.

Application No. 10971.

Decided April 22, 1925.

Wm. B. Bosley and C. P. Cutten, for Applicants.

SEAVEY, Commissioner.

OPINION.

The Railroad Commission is asked to make an order authorizing the Pacific Gas and Electric Company and Mount Shasta Power Corporation to execute, acknowledge and deliver to the Mercantile Trust Company of California and the National City Bank of New York, as trustees under the companies' first and refunding mortgage, dated December 1, 1920, a supplemental indenture or agreement, substantially in the form of the supplemental indenture and agreement filed in this proceeding and marked Exhibit "D," for the purpose of increasing the companies' authorized bonded indebtedness from \$160,000,000 to \$250,000,000.

By Decision No. 8724, dated March 10, 1921, in Application No. 6387, the Commission authorized Pacific Gas and Electric Company and Mount Shasta Power Corporation to execute a mortgage securing the payment of an authorized bond issue of \$160,000,000. It is of record that of such bonds, \$75,720,000 have been issued and \$79,953,200 are reserved to retire underlying bonds, leaving \$5,326,800 available for future sale. The company is engaged in extensive construction work and is of the opinion that it should, as it has done in the past, obtain part of its capital funds through the issue of bonds. Applicants' stockholders have authorized the increase of its bonded indebtedness from \$160,000,000 to \$250,000,000. The additional bonds will be secured and issued pursuant to the terms and conditions of applicants' first and refunding mortgage executed under the authority granted by Decision No. 8724, dated March 10, 1921.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company and Mount Shasta Power Corporation having applied to the Railroad Commission for permission to execute a supplemental indenture for the purpose set forth in the foregoing opinion, a public hearing having been held and the Railroad Commission being of the opinion that this application should be granted, as herein provided;

It is hereby ordered, that Pacific Gas and Electric Company and Mount Shasta Power Corporation be and they are hereby authorized to execute a supplemental indenture substantially in the same form as the supplemental indenture filed in this proceeding and marked Exhibit "D," provided that the authority herein granted to execute said supplemental indenture is for the purpose of this proceeding only and is granted only in so far as the Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said supplemental indenture as to such other legal requirements to which said supplemental indenture may be subject.

It is hereby further ordered, that within thirty days after the execution of said supplemental indenture, Pacific Gas and Electric Company shall file with the Commission three certified copies of said supplemental indenture.

It is hereby further ordered, that the authority herein granted will become effective upon the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of April, 1925.

DECISION No. 14835.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA, ON RELATION OF THE CALIFORNIA HIGHWAY COMMISSION, FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A STATE HIGHWAY CROSSING UNDER THE TRACKS OF THE UNION PACIFIC RAILWAY COMPANY, A CORPORATION, WHITTIER BOULEVARD, NEAR LOS ANGELES, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 10982.

Decided April 22, 1925.

BY THE COMMISSION.

OPINION.

In this application the California Highway Commission seeks permission to construct a crossing under the tracks of the Los Angeles and Salt Lake Railroad Company (designated as the Union Pacific Railway Company in the application) at Whittier boulevard between Los Angeles and Whittier in Los Angeles County, California, as hereinafter set forth.

Construction of the proposed subway will eliminate the existing grade crossing at this location on this heavily traveled highway. Notice has been received from the Los Angeles County Grade Crossing Committee wherein the granting of this application is heartily endorsed and the plan attached to the application as Exhibit "A," is approved.

Applicant and the railroad company involved have reached an agreement which provides for a division of costs of said undercrossing as follows:

All costs of said grade separation shall be apportioned between and shall be borne and paid by the parties hereto upon the following basis:

The total actual cost of said grade separation, less the amount that the cost of the new paving exceeds the cost of replacing the existing paving, divided by two, shall be borne and paid by the Railroad Company. The remainder shall be borne and paid equally by the County and the Highway Commission.

After completion of the work herein contemplated, the Highway Commission shall at its sole cost and expense maintain, repair and renew the said highway covered hereby, including grading, surfacing, paving, retaining walls and curbing, and the

drainage, dewatering and lighting systems; and the Railroad Company shall at its sole cost and expense maintain, repair and renew the foundations, abutments, wing walls, girders and floor system, including painting of the steel work of said subway.

The total estimated cost of the grade separation is placed at \$161,908, as shown on Exhibit "A" attached to the application.

ORDER.

The People of the State of California on relation to the California Highway Commission having on April 4, 1925, made application for an order authorizing the construction of an undergrade crossing under the tracks of the Los Angeles and Salt Lake Railroad Company at Whittier boulevard between Los Angeles and Whittier in Los Angeles County, California, as shown more particularly on the map (Exhibit "B") attached to the application, both parties having agreed as to the division of cost of constructing said undergrade crossing, and it appearing to the Commission that a public hearing is not necessary and that this application should be granted under certain conditions hereinafter specified;

It is hereby ordered, that California Highway Commission be and it is hereby authorized to construct a state highway under the track of the Los Angeles and Salt Lake Railroad Company on Whittier boulevard between Los Angeles and Whittier, Los Angeles County, California, in accordance with the plan attached to the application marked Exhibit "B," subject to the following conditions:

(1) The crossing shall be constructed at Highway Commission's engineer station 311+80 on road designated as road VII-L.A.-2.D and at an angle of 27° 9' with the track of the Los Angeles and Salt Lake Railroad Company.

(2) Clearances at said undergrade crossing shall be in conformity with those specified in this Commission's General Order No. 26.

(3) The cost of constructing said undergrade crossing shall be apportioned between the Highway Commission of the State of California and the Los Angeles and Salt Lake Railroad Company in accordance with the agreement hereinbefore set forth in the opinion of this order.

(4) Certified copy of said agreement of division of costs, duly executed, shall be filed with the Commission within sixty days of the date of this order.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission in writing of the completion of the installation of said undergrade crossing.

(6) If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twenty-second day of April, 1925.

DECISION No. 14838.

IN THE MATTER OF THE INVESTIGATION, ON THE COMMISSION'S OWN MOTION, OF THE REASONABLENESS OF THE RATES, SERVICE, RULES, REGULATIONS AND PRACTICES OF SIDNEY SMITH, OPERATING A PUBLIC UTILITY WATER SYSTEM UNDER THE FICTITIOUS NAME OF HOME GARDENS WATER COMPANY.

Case No. 2078.

Decided April 25, 1925.

Davis and Dadmun, by *L. E. Dadmun*, for Home Gardens Water Company.

BY THE COMMISSION.

OPINION.

This is an investigation on the Commission's own motion into the reasonableness of the rates, service, rules, regulations and practices of Sidney Smith, operating under the fictitious name of Home Gardens Water Company and engaged in the business of supplying water for domestic purposes to residents of Home Garden Acres in Los Angeles County.

This water system was installed, through an agreement between Sidney Smith and the J. D. Millar Realty Company, to aid in the sale of lots in the Home Gardens Tract. On the twenty-eighth day of January, 1924, the Commission in Decision No. 13088 granted Smith a certificate of public convenience and necessity to operate the system.

A public hearing in this matter was held before Examiner Satterwhite in Los Angeles after due notice thereof had been given so that all interested parties might appear and be heard.

The recent practices of this company have caused a great number of informal complaints to be filed with the Commission by the consumers. Attempt was made by the Commission to obtain reasonable service to consumers by informal negotiation but the relief sought apparently could not be obtained informally, therefore, this case was instituted by the Commission upon its own motion to investigate the affairs of this water company.

At the time this proceeding was called for hearing before the Examiner the defendant appeared and interposed the objection that the

Commission had no jurisdiction to hear the matter on the ground that no complaint had been filed or served upon him. He admitted that the Commission's order instituting the investigation had been duly served upon him, but contended that, under section 60 of the Public Utilities Act, even a proceeding instituted on the Commission's initiative must be predicated upon or accompanied by a written complaint specifying the acts or things done or omitted to be done by the utility in order that it might be informed in advance of the accusations or charges against it and thereby be enabled to prepare to meet them. We see no merit in this objection. A proceeding on the Commission's own motion accuses the utility of nothing; it charges neither sins of commission nor sins of omission; it is simply the instrumentality through which the Commission seeks to ascertain whether the rates of the utility are unjust, unreasonable, discriminatory or preferential, or whether its rules, regulations, practices and services are unjust, unreasonable, improper, inadequate or inefficient. The utility which is the subject of a Commission's own motion investigation is accorded the privilege and opportunity of interposing objections, of introducing evidence, of cross-examining witnesses and of advancing oral and written arguments to the same extent as in any other proceeding before the Commission; it is denied none of the rights which inhere in it in a formal complaint proceeding. Reference need only be made to many sections of the Public Utilities Act (sections 31 to 46, inclusive, and sections 53 and 60) which authorize the practice, to show that proceedings instituted and conducted on the Commission's own initiative were fully contemplated by the framers of the act and have been repeatedly enumerated by the legislature among the express powers and duties of the Commission. The objection, therefore, must be overruled.

It appears from the evidence, among other things, that the defendant changed the location of the service connection supplying one Tracy, a consumer, from one street to another without his consent and thereby caused great inconvenience and considerable expense for the changing of the plumbing within the premises. The defendant refused either to restore the original service or to reimburse said Tracy for the extra expense incurred by him in relocating the pipe lines to connect with his house. All attempts made by the Commission's representative to adjust this matter informally were met with flat refusal by defendant. However, during the hearing in this matter defendant did finally agree to reimburse the above consumer and deposited with the Commission sufficient funds to cover the necessary adjustment.

No company office is located in or near the community served and there is no resident employee who in the absence of defendant or his attorney has authority to deal with consumers, receive and adjust complaints, accept payments for water bills, or take responsible action in

cases of emergency. This condition has caused great annoyance and no little inconvenience to consumers especially in connection with the payment of bills. Steps should be taken immediately to remedy this situation.

Certain consumers complained that attempts had been made by defendant to charge for water service rates other than those authorized and accepted for filing by the Commission. This was admitted by defendant to be the fact in one case, but it was contended that although he was unable to collect in that instance, nevertheless he was within his rights in establishing a rate for a class of service not provided in the schedule of rates authorized by the Commission, and he further contends that under such circumstances a rate may be legally put into effect without authority from the Commission. This contention is unsound. Defendant's schedule of rates contains a meter rate applicable to any class of service. Furthermore, the provisions of the Public Utilities Act are clear as to the procedure relative to the establishment of rates, and there is no provision whereby a new rate can lawfully be put into effect by a public utility without authorization or acceptance for filing by the Railroad Commission.

In general, it should be said that the evidence throughout this proceeding indicates that the defendant has conducted the operations of his water business with a general disregard for the convenience of consumers and their rights to reasonable consideration and fair treatment. We can not urge too strongly the absolute necessity of fostering a spirit of fairness and understanding between a utility and its consumers, for it has been the experience of this Commission that a spirit of cooperation will result in greater benefits to the utility and the consumers than a spirit of animosity. We therefore suggest to defendant that he lend his best endeavors and efforts toward the cultivation of a more amicable feeling than now exists.

ORDER.

The Railroad Commission of the State of California having instituted an investigation on its own motion into the reasonableness of the rates, service, rules, regulations and practices of Sidney Smith, operating a public utility water system under the fictitious name of Home Gardens Water Company, a public hearing having been held thereon, and the Commission being fully advised in the matter;

It is hereby ordered, for the reasons set out in the opinion which precedes this order, that Sidney Smith, doing business under the fictitious name of Home Gardens Water Company, be and he is hereby directed to establish in or near the community served, such facilities as will enable consumers to pay bills for service rendered without unreasonable inconvenience and to make complaints or transact other necessary and proper business with some one in responsible charge of such

affairs, either a resident employee or otherwise, whose duty is shall be and who shall have the authority to deal with the general and ordinary matters affecting consumers, and who shall also have power to act in emergencies and from time to time remedy such general matters as necessity may require.

It is hereby further ordered, that Sidney Smith be and he is hereby directed to file with the Railroad Commission, for its approval, within thirty (30) days from the date of this order, plans for the proper compliance with the terms of this order as set out above.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twenty-fifth day of April, 1925.

DECISION No. 14840.

IN THE MATTER OF THE APPLICATION OF HARRY S. PAYNE, OPERATING UNDER THE FICTITIOUS NAME OF PACIFIC MOTOR EXPRESS, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR TRUCK SERVICE FOR THE TRANSPORTATION OF EXPRESS AND FREIGHT AS AN EXTENSION OF PRESENT OPERATIVE RIGHTS BETWEEN LOS ANGELES AND TEMECULA, AND TO AUTHORIZE CERTAIN INTERMEDIATE POINTS ON SUCH ROUTE.

Application No. 10033.

Decided April 25, 1925.

Myron Westover, for Applicant.

N. C. Folsom, for Pickwick Stages, Incorporated, and Murrietta Valley Motor Freight Line, Protestants.

T. A. Woods, for American Railway Express, Protestant.

BY THE COMMISSION.

OPINION ON REHEARING.

By Decision No. 13968 on application herein, dated August 27, 1924, this Commission made its order granting said application. Whereupon a petition for rehearing was filed by protestant Pickwick Stages, Incorporated, operating under lease the Murrietta Valley Motor Freight Line, together with a request from applicant for permission to file an amended application covering additional service. The Commission granted both the petition for rehearing and applicant's request for permission to file an amended application, and ordered that the matter be heard before Examiner Williams at Los Angeles, said hearing has been duly held and the matter, upon rehearing, submitted.

In the original order it was not provided that the certificate granted applicant should include transportation of freight and express between Los Angeles and points between Chino and Corona, exclusive of the points named, including Los Serranos Country Club. This was an inad-

vertence which should be corrected; and as to this correction, protestants offered no objection.

Protestant Pickwick Stages, Incorporated, operating the Murrietta Valley Motor Freight Line, maintains, under proper authority from this Commission, freight service between Los Angeles and Corona, and from Los Angeles to points east of Corona, including Glen Ivy, Alberhill, Elsinore, Sedco, Wildomar, Murrietta, Murrietta Hot Springs and Temecula. It appears that daily service was maintained by this protestant to the points named until June, 1924, when service was reduced without authority from this Commission, to three trips weekly. In October, 1924, this protestant filed a new schedule, effective November 10, 1924, reestablishing daily service.

Applicant Payne, under authority of Decision No. 11655 on Application No. 8425, operates, under the name of the Pacific Motor Express, a service via Pomona between Los Angeles and points east of Corona (but not including Corona), including Temecula and Pauba Ranch. By his amended application, applicant now seeks to include the transportation of property between Los Angeles and Corona via Pomona, and also to extend his service along Lake Shore drive in the vicinity of Elsinore, and from Temecula to Fallbrook and San Luis Rey. By the amendment, new rates are offered for the additional services proposed.

The contention between applicant and protestants is based largely upon the question as to the necessity of another service between Los Angeles and Corona. Protestant Murrietta Valley Motor Freight Line now traverses a route by way of Anaheim and Santa Ana Canyon, which is shorter than the route by way of Pomona, as proposed by applicant.

By Decision No. 6629 on Application No. 4698, dated August 29, 1919, protestant's predecessors, Beyerle and Randle, were authorized to transport freight from Los Angeles via Anaheim to Temecula, serving Glen Ivy, Alberhill, Elsinore, Sedco, Wildomar, Murrietta and Murrietta Hot Springs, no local service between Los Angeles and Corona being authorized. By Decision No. 8230 on Application No. 6167, Randle transferred his rights to Beyerle. By Decision No. 10661 on Application No. 7579, dated July 6, 1922, Beyerle, operating as the Murrietta Valley Motor Freight Line, was authorized to establish through service between Los Angeles and Corona. Since then protestant and its predecessors have been the only carriers by auto between Los Angeles and Corona. It appears that no right to transport property between Corona and points east and south of Corona has ever been obtained.

By Decision No. 11841 on Application No. 8768, Beyerle was authorized to lease all the foregoing rights to protestant Pickwick Stages,

Incorporated. At this time protestant had on file with this Commission tariffs and time schedules showing daily operation. On October 23, 1924, protestant issued another time schedule, effective November 10, 1924, providing for daily service to Temecula, including Corona.

Testimony in this proceeding indicates that the Murrietta Valley Motor Freight Line is now operating a through continuous service between Los Angeles and Temecula, serving Corona and all points east and south with the same schedule and vehicles.

Applicant Payne possesses a certificate authorizing the transportation of freight and express between Los Angeles and points east of Corona, and the record is clear as to the efficiency of his service. The record is equally clear (including the admission of F. E. Burdett, superintending the freight operations of protestant), that protestant in June reduced its schedule, without authority having been received from this Commission, from daily to three trips weekly, and that daily service was not restored until after granting of the instant application by Decision No. 13968, now under question in rehearing.

There is also testimony of many witnesses that the service of Murrietta Valley Motor Freight Line into Corona and to other points is not efficient, that shipments are delayed, that at least on one occasion shipments have been held at Corona over night for delivery at points east and south of Corona on the following day, and that shippers and consignees at Corona have not been able to use the service of protestant because of such delays and irregularities in its schedule of operations.

Testimony as to the inefficiency of the service rendered by protestant Murrietta Valley Motor Freight Line was produced by applicant in support of the need of a service by him between Los Angeles and Corona.

Howard L. Glass, hardware merchant of Corona, testified that he had attempted to use Murrietta service and on one occasion had left an order for transportation of a shipment at a cold-drink stand, understood by him to be the point of contact with protestant's trucks. After waiting two days and receiving no response, witness found other means of transporting the shipment. Witness admitted that he was prejudiced against truck service, but stated he would use such service from Corona to points east and south. He testified that he had given instructions that all his Los Angeles shipments be sent by rail.

Willis J. Fink, garage and machine shop, testified that he sought to make use of protestant's service, but found it unsatisfactory because the pick-up at Los Angeles took one or two days and in one instance protestant failed to pick up a shipment as ordered. Witness testified that he once ordered a shipment of pistons on Saturday and did not receive them until the following Tuesday.

J. A. Johnson, blacksmith, testified that he sometimes requires the transportation of two or three tons of material from Los Angeles to Corona, but sends a private truck for it; that he could not depend upon Murrietta service, and that he had been told by one of protestant's drivers that they send a truck out only every other day..

Chas. F. Kistler, automobiles, Corona, testified that he had received fair service from the Murrietta Line except on a few occasions. On one of these occasions a shipment of tires came two days late. Witness said he would make use of a daily service if one were provided that could be depended upon.

Chas. E. Hurt, Los Angeles manager of the Marshall Paint Company, which has a branch at Corona, testified that he formerly used the Murrietta freight service. On one occasion, witness testified, he delivered 1200 pounds of material at the Murrietta Line's Los Angeles terminal, for transportation to Corona. When the consignment did not reach Corona, witness telephoned the Murrietta terminal and was informed that the shipment had not been forwarded because only half a truck load was offered by shippers and protestant was holding consignment for a truck capacity load. Witness testified that he had not used Murrietta service since that time, but stated that he would make use of a daily truck service if it were dependable.

Fred R. Wenger, Los Angeles, testified that he had used Murrietta service in shipping carbon dioxide in tanks to Corona. He testified that he had difficulty in getting cash returns from these shipments, which were sent C. O. D. Shipments made May 3, 12 and 21st were remitted for under one check May 28th; shipments made June 4 and 16th were paid for by separate checks July 15 and July 30th; and a shipment of June 30, involving collection of \$16.80, was not paid for by protestant until October 15th. Witness also testified that it required considerable effort to obtain these settlements.

Chas. E. Christopher, Los Angeles, testified that he was employed by applicant Payne to check operations of protestant Murrietta Valley Motor Freight Line. Witness testified that protestant's truck, which was scheduled to leave Los Angeles on October 9, left the following day at 10.35 a.m., reaching Elsinore at 6 p.m. On October 15th a truck and trailer left the Murrietta terminal at 11.51 a.m. and reached Corona at 4.05 p.m., remaining there all night. On the following day the truck made deliveries at Elsinore at 11.35 a.m., at Murrietta at 1 p.m., and at Temecula at 2.20 p.m. Witness testified that he inquired of protestant's agent at Elsinore as to the schedules observed and was informed that protestant did not maintain a regular schedule but made the rounds as often as possible.

Applicant Payne testified that he had seen trucks belonging to protestant in and about Elsinore as late as 6.10 p.m.

W. F. Lemon, assistant service inspector of the Railroad Commission, testified that he had checked the service of protestant and that it was being given every other day, and not daily, as scheduled.

Twice before, in proceedings before this Commission involving this protestant (Decisions Nos. 10818 and 11655), this Commission has admonished protestant to maintain efficient and adequate service. Mr. Burdett testified that daily service has been restored and that effort is being made to maintain a service efficient and adequate at all times for the needs of Corona and points east and south.

The record does not disclose a large volume of business into Corona or sufficient to sustain two motor freight carriers, but protestant Murrietta Valley Motor Freight Line has arbitrarily deviated from its schedules and repeatedly neglected its duty, and for several months prior to the hearing. For these reasons and in the interest of adequate service to the public, based on the testimony herein of Corona shippers, this Commission will admit applicant to this field on the basis of the dependable service offered.

As to other extensions applied for, the testimony shows that approximately 500 gallons of milk daily are available for transportation in the region of San Luis Rey, but there was no testimony indicating that this commodity would move to Los Angeles, but rather that it would move to San Diego. In the absence of affirmative proof of need, this extension will be denied. Extension along Lake Shore drive to serve an athletic club, a hunting lodge and a cannery, via Alberhill, Elsinore or Sedco, seems to be a mere rerouting of deliveries now deposited at Elsinore. However, as Lake Shore drive is not now included in applicant's rights, a certificate to traverse this road is necessary and will be granted, as a demand service only, as applied for.

Upon the record herein, we hereby find as a fact that public convenience and necessity require the service of applicant between Los Angeles and Corona, and to points on Lake Shore drive as applied for, but not to Fallbrook, Rainbow and San Luis Rey, and the order will so provide.

ORDER ON PETITION FOR REHEARING.

A public hearing having been held in the above entitled proceeding, evidence having been received, the matter having been duly submitted and the Commission being now fully advised;

It is hereby ordered, that the order in Decision No. 13968 on application herein be and the same hereby is modified to read as follows:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the extension of the express and freight service of applicant herein, in order that service may be given between Los Angeles, Alhambra, El Monte, Puente, Walnut,

Spadra, Pomona, Chino, Ranger, Norco, Los Serranos Country Club, Corona, Glen Ivy, Alberhill, Elsinore, Sedco, Wildomar, Murrietta, Murrietta Hot Springs, Temecula, Pauba Ranch and Lake Shore drive (via Alberhill, Elsinore or Sedco); provided, that applicant shall not transport property between Los Angeles and Chino, inclusive, or intermediates, except when destined to or originating at points east and south of Chino, over and along the following routes:

The route now traversed by applicant herein under authority of Decision No. 11655, and five (5) miles on either side thereof between Chino and Corona only; and

To points on Lake Shore drive via Alberhill, Elsinore or Sedco; and that a certificate of public convenience and necessity therefor be and the same hereby is granted to applicant herein, subject to the following conditions:

1. That applicant shall, within twenty (20) days from the date hereof, file with this Commission his written acceptance of the certificate herein granted, stipulating that such certificate is an extension and enlargement of the rights now possessed by him, and not a new and separate operative right to any or all of the points served.

2. That the right to operate on either side of the route and within five (5) miles thereof means that applicant may, upon demand only, depart from the route on either side to the distance of five (5) miles or less, for the purpose of receiving or discharging property which he is authorized to transport, and departures from said route for any other purpose are distinctly forbidden, and that such departures from the route herein authorized shall not include any point within the city limits of Chino.

3. That applicant shall file, within thirty (30) days from the date hereof, duplicate tariff of rates and time schedules in accordance with General Order No. 51 of the Railroad Commission, and shall begin service within sixty (60) days from date hereof.

4. That the rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. That no vehicle may be operated by applicant under the authority hereby granted unless such vehicle is owned or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that in all other respects the application herein be and the same hereby is denied.

For all other purposes, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this twenty-fifth day of April, 1925.

DECISION No. 14852.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ONE HUNDRED THOUSAND (100,000) SHARES OF ITS SIX PER CENT PREFERRED STOCK, SERIES "B".

Application No. 11024.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL FIFTEEN THOUSAND (15,000) SHARES OF ITS SEVEN PER CENT PREFERRED STOCK, SERIES "A".

Application No. 11030.

Decided April 29, 1925.

Roy V. Reppy, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled matters Southern California Edison Company asks the Railroad Commission for permission to issue and sell \$10,000,000 of its Series "B" 6 per cent preferred stock, and \$1,500,000 of its Series "A" 7 per cent preferred stock for the purpose of reimbursing its treasury and of financing the cost of the construction, completion, extension and improvements of its facilities.

The record shows that Southern California Edison Company has an authorized capital stock of \$250,000,000, divided into \$4,000,000 of original preferred stock, \$60,000,000 of Series "A" 7 per cent preferred stock, \$40,000,000 of Series "B" 6 per cent preferred stock, \$21,000,000 of Series "C" 5 per cent preferred stock and \$125,000,000 of common stock. Of the authorized amounts there was outstanding in the hands of the public on March 31, 1925, \$4,000,000 of the original preferred stock, \$22,145,700 of the Series "A" 7 per cent preferred stock, \$10,000,000 of the Series "B" 6 per cent preferred stock and \$42,158,672 of the common stock; a total of \$78,304,372. In addition, it is reported that on the same date \$1,430,500 of the Series "A" 7 per cent preferred stock and \$5,369,500 of the common stock was subscribed for but unissued. For the terms of preference of the preferred stock, reference is made to Decision No. 13395, dated April 15, 1924, in Application No. 9942 (Vol. 24, Opinions and Orders of the Railroad Commission of California, page 763).

As of March 31, 1925, applicant reports its assets and liabilities as follows:

<i>Assets.</i>	
Fixed capital	\$195,215,455 50
Sinking and other funds	300,013 20
Other investments	3,822,546 53
Subscribers to capital stock	4,423,721 08
Cash	1,844,006 32
Notes receivable	172,563 87

Accounts receivable	\$1,917,771 71
Materials and supplies	5,302,116 33
Other current assets	36,235 01
Deferred charges	8,430,729 02
Discount on stock	529,856 62
Total assets	\$221,995,015 14

Liabilities.

Capital stock	\$78,304,372 00
Stock subscriptions	6,800,000 00
Funded debt	110,531,700 00
Debentures	2,937,300 00
Notes payable	6,555,000 00
Accounts payable	1,629,096 46
Accruals	1,807,612 76
Deferred credits	1,180,905 77
Reserve for depreciation	9,352,186 79
Other reserve	219,811 35
Appropriated surplus	566,718 79
Surplus	2,110,311 22
Total liabilities	\$221,995,015 14

The company is now asking permission to issue additional stock to finance the cost of construction work. In a former proceeding, Application No. 10611, applicant reported expenditures for new construction as of September 30, 1924, against which no securities had been issued, at \$5,462,362.79. In these applications it reports that since September 30, 1924, and up to February 28, 1925, it has expended \$10,851,010.80 for construction and \$121,000 to retire a like amount of Shaver Lake Lumber Company's bonds that became due on January 15, 1925. Adding these expenditures to the \$5,462,362.79 results in a total of \$16,434,373.59. From this total, applicant deducts \$10,550,680, said to have been received from the sale of stock heretofore authorized by the Commission and used to finance construction expenditures made subsequent to September 30, 1924, leaving a balance of \$5,883,693.59, which is reported to represent capital expenditures, as of February 28, 1925, against which no securities have been issued.

In addition to reimbursing its treasury on account of the expenditures of \$5,883,693.59, applicant proposes to use the proceeds from the sale of its stock to finance, in part, its estimated construction expenditures during 1925. In Exhibit No. 7, filed in Application No. 10611, it reported its estimated construction expenditures for the year at \$25,000,000, which amount is summarized and segregated as follows:

Hydro development—Big Creek	\$7,535,000 00
Steam plants—Stone and Webster contracts	3,965,000 00
Total production	\$11,500,000 00
220 kilovolt amperes transmission	1,500,000 00
Total production and transmission	\$13,000,000 00
Miscellaneous system betterments	12,000,000 00
Total estimated expenditures	\$25,000,000 00
24—36855	

In its Exhibits No. 5 and No. 6, applicant reports construction expenditures of \$234,062.14 which are not included in its annual budgets.

It is of record that a portion of the reported expenditures will be financed with proceeds to be received from the sale of common and Series "A" preferred stock heretofore authorized by the Commission, the foregoing balance sheet showing \$4,423,721.03 receivable from the sale of stock. The testimony shows that not all of the \$4,423,721.03 will be collected during 1925. The sale of additional stock is necessary.

Applicant asks permission to sell its Series "A" preferred stock at not less than par and the Series "B" stock at not less than 92 per cent of par value. By Decision No. 14297, dated November 28, 1924, in Application No. 10611, the Commission authorized applicant to issue and sell \$10,000,000 of its Series "A" preferred stock at not less than 102 per cent of par value. It appears that applications have been filed with the company to purchase about \$1,100,000 of stock in excess of the amount authorized, and that the company proposes to fill these applications with the stock now applied for. It is of record, however, that the \$1,100,000 of stock has been subscribed for at \$105 and \$106 a share and that the company intends to advance the price of its Series "A" stock to \$107 a share, if paid for in full in cash, and to \$108 if purchased under installment contracts. The order herein will authorize the sale of the Series "A" stock at not less than \$105 a share.

ORDER.

Southern California Edison Company, having applied to the Railroad Commission for permission to issue \$1,500,000 of its Series "A" 7 per cent preferred stock and \$10,000,000 of its Series "B" 6 per cent preferred stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole, or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue and sell on or before December 31, 1925, fifteen thousand (15,000) shares of its 7 per cent preferred stock of the aggregate par value of \$1,500,000, and one hundred thousand (100,000) shares of its 6 per cent Series "B" preferred stock, of the aggregate par value of \$10,000,000.

The authority herein granted is subject to the following conditions:

1. Applicant shall sell the Series "A" preferred stock herein authorized to be issued at not less than \$105 per share and the Series "B" preferred stock at not less than \$92 per share, and may use the proceeds received to reimburse its treasury and to finance, in part, the

cost of the extensions, additions and betterments to which reference is made in the foregoing opinion and pay expenses incurred to sell said stock, provided only such expenditures as are properly chargeable to fixed capital accounts as defined by the uniform systems of accounts prescribed or adopted by the Railroad Commission may be financed with such proceeds; and further, that not more than two dollars per share of stock sold may be used to pay expenses incurred to sell said stock.

2. Applicant may, if it so desires, consolidate the proceeds obtained from the sale of the stock herein authorized to be issued and sold with the proceeds received from the sale of stock, the issue and sale of which has heretofore been authorized by the Commission.

3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this twenty-ninth day of April, 1925.

DECISION No. 14853.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED FURNITURE MOVING CORPORATION, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE TRUCK SERVICE AS A COMMON CARRIER FOR THE TRANSPORTING OF HOUSEHOLD GOODS, FURNITURE, PIANOS AND OTHER PERSONAL EFFECTS, INCLUDING TRUNKS AND BAGGAGE, BETWEEN: (1) VALLEJO AND SANTA ROSA, CALIFORNIA, AND INTERMEDIATE POINTS VIA NAPA, SONOMA AND EL VERANO; (2) ALSO BETWEEN VALLEJO AND SANTA ROSA, CALIFORNIA, AND INTERMEDIATE POINTS VIA NAPA, YOUNTVILLE AND ST. HELENA; (3) ALSO FOR AUTHORITY TO OPERATE AUTOMOBILE TRUCKS OR VANS THROUGH AND BETWEEN ANY AND ALL POINTS ON ONE OPERATIVE RIGHT, ON THE ONE HAND, AND ANY AND ALL POINTS ON ALL OTHER OPERATIVE RIGHTS, ON THE OTHER HAND.

Application No. 10548.

Decided April 29, 1925.

Harry A. Encell and Jas. A. Miller, by Jas. A. Miller, for Applicant.

Henry H. Gogarty, for Southern Pacific Company, Protestant.

Edson Abel, for California Farm Bureau Federation, Napa County Farm Bureau and F. A. Randall, Protestants.

John T. York, for San Francisco-Napa and Calistoga Railway, Protestant.

T. J. Critchley, for Critchley and Son, Protestant.

F. P. Thompson, in propria persona, Protestant.

BY THE COMMISSION.

OPINION.

In this proceeding Consolidated Furniture Moving Corporation, a corporation, seeks a certificate of public convenience and necessity authorizing: (a) The operation of an automobile truck service as a common carrier for the transportation of household goods, furniture, pianos, and other personal effects, including trunks and baggage, between Vallejo and Santa Rosa, via Sonoma (the proposed route passing through Vallejo, Napa, Sonoma, El Verano, Boyes, Fetters, Glen Ellen, Kenwood and Santa Rosa) excluding local service between intermediate points, and between Vallejo or Santa Rosa and intermediate points; and (b) authorizing the establishment of rates and the operation of automobile trucks or vans through and between points on one operative right on the one hand, and points on all operative rights, on the other hand. The operative rights thus sought to be consolidated are those included within the certificate of public convenience and necessity sought in this proceeding and the certificate granted to the applicant herein in our Decision No. 13775, dated July 3, 1924, in Applications Nos. 9673, 9674, 9675 and 9676, such decision authorizing the transportation by applicant as a common carrier of the commodities herein mentioned over the following routes, viz. (1) between San Francisco, Oakland and Sacramento and intermediate points via Vallejo; (2) between San Francisco, Oakland and Sacramento and intermediate points via Tracy, Stockton and Lodi; (3) between San Francisco and Santa Rosa and intermediate points via Sausalito, San Rafael and Petaluma; and (4) between San Francisco and San Jose and intermediate points via San Mateo and Palo Alto. Under such certificate, applicant herein was granted the right to serve points reached laterally over these routes for a distance not exceeding twenty-five miles on each side of the main highway traversed, and a similar right is now sought in connection with the proposed route between Vallejo and Santa Rosa. In the operation of its through service between points on its different operative rights, applicant proposes to serve Vallejo and Santa Rosa and all intermediate points, including laterals; these points will be excluded only in maintaining its local service between Vallejo and Santa Rosa. The applicant, however, stipulated that it would not serve points north of Napa on the Napa County highway.

For the service between Vallejo and Santa Rosa applicant proposes a rate of $1\frac{1}{2}$ cents per 100 pounds per mile, plus a loading and unloading charge of 40 cents per 100 pounds. For its through service between main highway points on its different operative rights, applicant proposes a rate of $1\frac{1}{2}$ cents per 100 pounds per mile, plus 20 cents per 100 pounds whenever necessary to transport the shipment across one ferry, and 30 cents per 100 pounds whenever necessary to transport it across

two ferries. To or from lateral points a charge of 50 cents for each mile traversed off the main highway will be added to the through rates. All rates are subject to the rules and regulations shown in applicant's tariff now on file.

Applicant proposes to operate one round trip a week, or oftener if necessary, and will use the equipment now on hand, together with such additional trucks and vans as the service may require.

A public hearing was held before Examiner Austin at San Francisco on March 16, 1925, when evidence was offered and the matter was duly submitted, and it is now ready for decision.

Applicant testified that he was now operating over the routes embraced within Decision No. 13775, but did not conduct a through service between points on different operative rights, because he was not authorized to do so by such decision. A reloading charge of 40 cents per hundred pounds was imposed upon through shipments, resulting in the loss of about half of the business available. On an average load of 3000 pounds, the reloading charge would amount to about \$12, which would be saved to the shipper, if a consolidation were permitted. During the preceding four months, calls for transportation from points on one operative right to another, averaged about four a week. Most of these calls came from persons in the bay district, seeking the transportation of household goods to Napa and Sonoma, there being very few calls originating in the Napa Valley, and but little demand for transportation north of Napa. Applicant proposes to commence operations with two vans, adding to them such equipment as may be needed. At present, he stated, these vans are adequate to move all the traffic offered over his entire route; in fact, he is now handling but 40 per cent of the total capacity of his equipment. He proposes to operate on a schedule of once a week or oftener, if necessary, between all points on the main highway and will operate twice a month to Napa and other lateral points. To attract additional business from lateral points he proposes to reduce the rates, since he has been unable in the past to reach points more than ten miles off the highway. He proposes to serve such points only when a sufficient volume of traffic is offered. Unrated household goods will be handled from door to door, a service which is not afforded by the railroads.

Officials of three of the larger furniture moving companies operating in the bay region and central California, testified on behalf of applicant. They stated that in their experience, calls from one operative right to another are quite frequent, and that it is an advantage to consolidate them. While these carriers serve Vallejo and Santa Rosa, the demand for the transportation of household goods to these points from the bay region is not sufficient to warrant them all in establishing regular service, and they appear willing to permit the applicant to handle all

of this business, stating that he will in no way compete with them. From their testimony it appears that calls for the transportation of household goods from San Francisco and other bay points to Napa, Vallejo and Santa Rosa are received about once a week.

The granting of the application was protested by the Napa County Farm Bureau, the California Farm Bureau Federation, Southern Pacific Company, F. A. Randall, San Francisco, Napa and Calistoga Railway Company, Critchley & Son and F. P. Thompson. However, all of the protestants, except the Southern Pacific Company, withdrew their opposition when the applicant stipulated that it would not operate north of Napa on the Napa County highway.

The Southern Pacific Company operates daily, except Sundays, between San Francisco Bay points and points on its Napa and Calistoga branch. Household goods may be transported by rail between those points, but it will not accept less than carload shipments unless they are crated, nor does it perform any pick-up or delivery service.

We are of the opinion that there is a public need for the proposed service and that the application should be granted.

Upon full consideration of the evidence, we are of the opinion and hereby find as a fact that public convenience and necessity require the operation by Consolidated Furniture Moving Corporation, a corporation, of an automobile truck service as a common carrier for the transportation of household goods, furniture, pianos and other personal effects, including trucks and baggage, between Vallejo and Santa Rosa, via Sonoma, excluding local service between intermediate points and between Vallejo and Santa Rosa and intermediate points, and including territory extending laterally for a distance of twenty-five miles on either side of the highway traversed.

We are of the opinion and hereby further find as a fact that public convenience and necessity require the establishment of rates and the operation by the Consolidated Furniture Moving Corporation, a corporation, of automobile trucks or vans for the transportation by said corporation as a common carrier of the commodities specified in the preceding finding through and between points on one operative right on the one hand and points on all other operative rights on the other hand described as follows: (1) Between San Francisco, Oakland and Sacramento, and intermediate points via Vallejo; (2) between San Francisco, Oakland and Sacramento and intermediate points via Tracy, Stockton and Lodi; (3) between San Francisco and Santa Rosa and intermediate points via San Rafael and Petaluma; (4) between San Francisco and San Jose and intermediate points via San Mateo and Palo Alto; and (5) between Vallejo and Santa Rosa and intermediate points via Sonoma, including territory extending laterally for a dis-

tance of twenty-five miles on either side of the highways traversed.

An order will be entered accordingly:

ORDER.

A public hearing having been held in the above entitled application, the matter having been duly submitted, the Commission having been fully advised, and basing its order on the findings of fact which appear in the opinion preceding this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by the Consolidated Furniture Moving Corporation, a corporation, of an automobile truck service as a common carrier for the transportation of household goods, furniture, pianos, and other personal effects, including trunks and baggage, between Vallejo and Santa Rosa, via Napa, Sonoma, El Verano, Boyes, Fetters, Glen Ellen and Kenwood, excluding local service between intermediate points, and between Vallejo and Santa Rosa and intermediate points, and including territory extending laterally for a distance of twenty-five miles on either side of the highways traversed; and

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the establishment of rates for and the operation by the Consolidated Furniture Moving Corporation, a corporation, of automobile trucks or vans for the common carriage of commodities as set forth in the first declaration herein through and between points on one operative right on the one hand and points on all other operative rights on the other hand described as follows: (1) Between San Francisco, Oakland and Sacramento, and intermediate points via Vallejo; (2) between San Francisco, Oakland, Sacramento and intermediate points via Tracy, Stockton and Lodi; (3) between San Francisco and Santa Rosa and intermediate points via San Rafael and Petaluma; (4) between San Francisco and San Jose and intermediate points via San Mateo and Palo Alto; and (5) between Vallejo and Santa Rosa and intermediate points via Sonoma, including territory extending laterally for a distance of twenty-five miles on either side of the highways traversed.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions:

1. That said certificate herein granted shall not authorize applicant, Consolidated Furniture Moving Corporation, to transport said commodities herein named from or to any point or points, on the highway north of Napa, the right to serve such points being hereby expressly excepted from said certificate.

2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, tariff of rates and time schedules identical with those filed as Exhibits "A" and "B" attached to the application herein within a period of not to exceed twenty (20) days from date hereof; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

5. For all other purposes, except as hereinafove stated, the effective date of this order will be twenty (20) days from the date hereof.

Dated at San Francisco, California, this twenty-ninth day of April, 1925.

DECISION No. 14854.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LONG BEACH, A MUNICIPAL CORPORATION, FOR THE CONSTRUCTION OF TWO CROSSINGS OF THE RIGHT OF WAY OF THE PACIFIC ELECTRIC RAILWAY COMPANY BY PUBLIC STREETS. IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

Application No. 10750.

Decided April 29, 1925.

Bruce Mason, City Attorney, for Applicant.

R. E. Wedekind, for Pacific Electric Railway Company.

John R. Berryman, Jr., for Los Angeles County Grade Crossing Committee.

BY THE COMMISSION.

OPINION.

In the above entitled application the city of Long Beach seeks permission to construct Roswell avenue and Eighth street, respectively, at grade across Pacific Electric Railway Company's so-called "Newport line" in the city of Long Beach, Los Angeles County, California.

A public hearing was held in this matter at Long Beach, before Examiner Williams, on March 9, 1925.

The two crossings proposed herein are situated about 900 feet apart, Roswell avenue being a north and south street, while Eighth street runs east and west. In general, the more important east and west streets and north and south avenues of Long Beach are 660 feet apart, or eight blocks to the mile. The resultant blocks are divided with an irregular system of shorter streets and avenues.

The testimony shows that the city of Long Beach is now building a senior high school to serve the east half of the city. It is located between Eighth and Tenth streets and east of Ximeno avenue, which is the next important highway east of Roswell avenue. Jefferson junior high school is situated between Seventh and Eighth streets and Euclid and Grand avenues. Grand avenue is one-quarter of a mile west of Roswell avenue. Recreation Park, the principal park of the city, is south of Anaheim street and east of Ximeno avenue.

Pacific Electric Railway Company operates high speed interurban service over its Newport line. There are thirty regular passenger trains over this track per day and in addition, several irregular movements such as freight trains, work trains, line cars, etc. These irregular moves rarely exceed ten in number per day.

Roswell avenue extends from Livingston drive to Anaheim street a distance of a little less than one and one-half miles, except for the strip across the Pacific Electric Company's right of way which the city seeks to open in this proceeding. Ximeno avenue, located 660 feet east of Roswell avenue, extends from Livingston drive to Hathaway avenue, a distance of a little less than two miles, and crosses the Newport line at grade. Termino avenue, located 660 feet to the west of Roswell avenue, extends from Third street to State street, a distance of about one and one-half miles, and crosses the Newport line at grade. This street is paved and carries a large volume of vehicular traffic. Roswell avenue is not paved on either side of the proposed crossing and it appears there is no plan at present to pave it.

The city proposes to construct Roswell avenue across the Newport line with a grade of approach south of the track of seven and one-half per cent, descending toward the track. This rather steep grade of approach is required because the railroad in this vicinity passes through a cut. The north approach is fairly light as the natural ground surface has a downward slope to the north. The view of the railroad in both directions from Roswell avenue south of the track would be seriously impaired, if the proposed crossing were constructed, by the walls of the cut which would have a maximum depth of about seven feet. The highway intersects the railroad at an angle of about 52 degrees. It is evident that these physical conditions, in conjunction with the high speed interurban railway, make the proposed crossing at Roswell avenue a hazardous one.

The evidence shows that the proposed crossing would only shorten the distance to traffic which originated on Roswell avenue itself on one side or the other of the crossing and which desired to get to some point on the avenue on the opposite side of the crossing. The volume of this traffic appears to be small and does not seem to justify the construction of such a hazardous crossing over the railroad. Practially all the north

and south through traffic, in the vicinity of Roswell avenue, follows along Termino avenue. North and south traffic originating east of Roswell avenue is afforded a crossing over the railroad at Ximeno avenue.

Pacific Electric Railway Company presented an estimate showing the cost of the proposed crossing, including an automatic flagman, to be \$3,285. The estimate was not contested and no other estimates were presented.

Eighth street extends from Junipero avenue to Termino avenue, a distance of approximately one and one-half miles. The proposed Eighth street crossing would permit traffic to continue on Eighth street to the Recreation Park, a distance of about 2000 feet. The evidence shows that this crossing, if constructed, would afford another highway to the new senior high school and Recreation Park, and would shorten the distance for traffic originating on Eighth street, on one side of the crossing, which desired to reach a point on Eighth street on the other side of the crossing. This volume of traffic, however, does not seem to be large.

The next important streets parallel to Eighth are Seventh street on the south and Tenth street on the north, each of which cross this same railroad line at grade. Each of these streets is 660 feet distant from Eighth street. The proposed Eighth street crossing is adjacent to the Termino avenue crossing. Eighth street runs at right angles to Termino avenue and intersects the railroad at an angle of about 38 degrees. The view of the track from Eighth street at the proposed crossing would be somewhat impaired by a bank of earth east of Termino avenue and south of the railroad, and also by houses north of Eighth street and south of the railroad.

It is evident that the proposed Eighth street crossing would be a rather hazardous one, as Eighth street and the heavily traveled Termino avenue intersect each other and this high-speed railroad at practically a common point and at an acute angle, where the view is somewhat impaired.

Pacific Electric Railway Company presented an estimate showing the cost of the proposed crossing at Eighth street, including an automatic flagman, to be \$4,050. The estimate also was not contested and no other estimate was presented.

The Los Angeles County Grade Crossing Committee appeared and opposed the opening of both of the crossings. Reports based on the committee's investigations were submitted, and these reports show the committee's conclusion to be that there is not sufficient public necessity at this time to warrant the granting of either of the crossings applied for.

After due consideration of all the evidence in this case, it appears that the public convenience and necessity do not justify the granting of either of the crossings applied for. Therefore this application should be denied.

ORDER.

The city of Long Beach, having made application to this Commission for permission to construct Roswell avenue and Eighth street, respectively, at grade across the Pacific Electric Railway Company's so-called Newport line in the city of Long Beach, a public hearing having been held, the matter having been duly submitted and now being ready for decision, and the Commission being of the opinion that this application should be denied for reasons hereinbefore stated;

It is hereby ordered, that the above entitled application be and the same is hereby denied, without prejudice.

Dated at San Francisco, California, this twenty-ninth day of April, 1925.

DECISION No. 14860.

IN THE MATTER OF THE APPLICATION OF CORCORAN TELEPHONE EXCHANGE, INCORPORATED, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FILING OF RULES AND REGULATIONS RELATING TO SERVICE CONNECTION CHARGES AND MOVING CHARGES.

Application No. 10966.

Decided April 29, 1925.

BY THE COMMISSION.

ORDER.

Whereas, Corcoran Telephone Exchange, Inc., having filed an application with this Commission requesting authority to file and place in effect certain rules and regulations relative to service connection charges and charges for moves and changes, similar to those now in effect by other telephone utilities; and

Whereas, this Commission found certain rules and regulations to be reasonable in its Decision No. 8146 (18 C. R. C. 912), dated September 24, 1920, and in its Decision No. 13478 (24 C. R. C. 854), dated April 24, 1924; and there appearing no good reason why applicant should not now file and place in effect similar rules and regulations;

It is hereby ordered, that Corcoran Telephone Exchange, Inc., be and it is hereby authorized to file with this Commission, effective as of June 1, 1925, the following rules and regulations:

A. Service Connection Charges.

Service connection charges provided for hereunder are payable at the time application for the particular service or facility is made, and are in addition to the regular schedule of rates.

Service connection charges apply to all exchange service and facilities, except farmer line service, in accordance with the following provisions:

	Service connection charges
1. New service.	
Individual, party and auxiliary lines and private branch exchange trunks:	
Business and residence, each station-----	\$3 50
Business and residence, each trunk-----	3 50
Private branch exchange and intercommunicating system stations (except operator's sets):	
Business and residence, each station-----	3 50
Extension stations:	
Business and residence, each station-----	1 50
2. Additional service.	
Individual, party and auxiliary lines and private branch exchange trunks:	
Business and residence, each station-----	3 50
Business and residence, each trunk-----	3 50
Private branch exchange and intercommunicating system stations (except operator's sets):	
Applicable only to stations ordered more than 60 days after the date of initial establishment of the subscriber's private branch exchange or intercommunicating service.	
Business and residence, each station-----	1 50
Extension stations:	
Business and residence, each station-----	1 50
3. Service where instrumentalities are already in place on subscriber's premises:	
Business and residence, subscriber's exchange service, except farmer line service, one or more units-----	1 50

A change in location or type of instrumentalities made at subscriber's request is subject to the charges for moves and changes, provided the total charges for such moves and changes shall not exceed the charges for the initial establishment of the subscriber's complete service and facilities.

Service connection charges do not apply under the following conditions:

Business service.

- (a) When service is assumed by a receiver or by trustee, executor or administrator of an estate.
- (b) Change in the name of the business concern (*i. e.* individual, partnership, syndicate or corporation) when there is no complete change in ownership or management.

Residence service.

- (a) When service is assumed by a member of the former subscriber's family located in the same premises.
- (b) When there is no change in the individuality of the recipient.
- (c) When the subscriber's name has been changed by marriage or court order.

B. Service Charge for Restoration of Service.

A service charge of \$1 may be made and collected by the company before the restoration of service where service has been temporarily discontinued for any of the following reasons:

- (1) Nonpayment of bills as required by the company's rules and regulations.
- (2) To protect the company against fraud.
- (3) For failure of subscriber to comply with the company's rules and regulations after service has been established.

- (4) For any other reason for which subscriber is responsible, except a change in class, type or grade of service or location of facilities.

When a service has been permanently disconnected, the above charge does not apply.

C. Moves and Changes.

Moves and changes of telephone apparatus and wiring on the subscribers' premises, at the request of the subscriber will be made by the company, and the charges for such work will be as follows:

1. Telephone sets—

- (a) Moving from one location to another----- \$3 00
 (b) Change in type or style----- 3 00

2. Private branch exchange and intercommunicating systems—

- (a) Moving from one location to another:
- | | Same room | One room to another |
|--|-------------|---------------------|
| 1. Intercommunicating systems, per station----- | \$5 00 | \$7 50 |
| 2. P. B. X. systems, cord and cordless, per station--- | 3 00 | 3 00 |
| 3. P. B. X. switchboards, per position— | | |
| Cordless ----- | 5 00 | 10 00 |
| 30-line ----- | 5 00 | 10 00 |
| 80-line ----- | 7 50 | 15 00 |
| 160-line ----- | 10 00 | 25 00 |
| 320-line ----- | 17 50 | 40 00 |
| Over 320-line ----- | Actual cost | |

3. Other equipment and wiring.

Charges for moving or changing of equipment or wiring, other than that included under 1 and 2 above, will be an amount equal to the actual cost of labor and material involved.

4. Maintenance.

The charges specified above do not apply if the changes or moves are initiated by the Telephone Company and required for the proper maintenance of the equipment or service.

5. Change in class of service.

The charges specified above do not apply if the changes are required because of a change in type, class or grade of service.

Provided that said rules and regulations be filed with this Commission on or before May 29, 1925.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twenty-ninth day of April, 1925.

DECISION No. 14866.

IN THE MATTER OF THE APPLICATION OF MRS. LOLA BARNICKEL, OWNER AND MANAGER OF THE WEAVERVILLE TELEPHONE EXCHANGE, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE FILING OF RULES AND REGULATIONS RELATING TO SERVICE CONNECTION CHARGES AND MOVING CHARGES.

Application No. 11026.

Decided April 29, 1925.

BY THE COMMISSION.

ORDER.

Whereas, Mrs. Lola Barnickel, owner and manager of the Weaver-ville Telephone Exchange, having filed an application with this Commission requesting authority to file and place in effect certain rules and regulations relative to service connection charges and charges for moves and changes, similar to those now in effect by other telephone utilities; and

Whereas, this Commission found certain rules and regulations to be reasonable in its Decision No. 8146 (18 C. R. C. 912), dated September 24, 1920, and in its Decision No. 13478 (24 C. R. C. 854), dated April 24, 1924; and there appearing no good reason why applicant should not now file and place in effect similar rules and regulations;

It is hereby ordered, that Mrs. Lola Barnickel, owner and manager of the Weaver-ville Telephone Exchange, be and she is hereby authorized to file with this Commission, effective as of June 1, 1925, the following rules and regulations:

A. Service Connection Charges.

Service connection charges provided for hereunder are payable at the time application for the particular service or facilities is made, and are in addition to the regular schedule of rates.

Service connection charges apply to all exchange service and facilities, except farmer line service, in accordance with the following provisions:

	Service connection charges
1. New service.	
Individual, party and auxiliary lines and private branch exchange trunks:	
Business and residence, each station-----	\$3 50
Business and residence, each trunk-----	3 50
Private branch exchange and intercommunicating system stations (except operator's sets):	
Business and residence, each station-----	3 50
Extension stations:	
Business and residence, each station-----	1 50
2. Additional service.	
Individual, party and auxiliary lines and private branch exchange trunks:	
Business and residence, each station-----	3 50
Business and residence, each trunk-----	3 50
Private branch exchange and intercommunicating system stations (except operator's sets):	
Applicable only to stations ordered more than 60 days after the date of initial establishment of the subscriber's private branch exchange or intercommunicating service.	
Business or residence, each station-----	1 50
Extension stations:	
Business and residence, each station-----	1 50
3. Service where instrumentalities are already in place on subscriber's premises:	
Business and residence, subscriber's exchange service, except farmer line service, one or more units-----	1 50

A change in location or type of instrumentalities made at subscriber's request is subject to the charges for moves and changes, provided the total charges for

such moves and changes shall not exceed the charges for the initial establishment of the subscriber's complete service and facilities.

Service connection charges do not apply under the following conditions:

Business service.

- (a) When service is assumed by a receiver or by trustee, executor or administrator of an estate.
- (b) Change in the name of the business concern (*i. e.* individual, partnership, syndicate or corporation) when there is no complete change in ownership or management.

Residence service.

- (a) When service is assumed by a member of the former subscriber's family located in the same premises.
- (b) When there is no change in the individuality of the recipient.
- (c) When the subscriber's name has been changed by marriage or court order.

B. Service Charge for Restoration of Service.

A service charge of \$1 may be made and collected by the company before the restoration of service where service has been temporarily discontinued for any of the following reasons:

- (1) Nonpayment of bills as required by the company's rules and regulations.
- (2) To protect the company against fraud.
- (3) For failure of subscriber to comply with the company's rules and regulations after service has been established.
- (4) For any other reason for which subscriber is responsible, except a change in class, type or grade of service or location of facilities.

When a service has been permanently disconnected, the above charge does not apply.

C. Moves and Changes.

Moves and changes of telephone apparatus and wiring on the subscriber's premises, at the request of the subscriber will be made by the company, and the charges for such work will be as follows:

1. Telephone sets—

- (a) Moving from one location to another----- \$3 00
- (b) Change in type or style----- 3 00

2. Private branch exchange and intercommunicating systems—

(a) Moving from one location to another:	Same room	One room to another
1. Intercommunicating systems, per station-----	\$5 00	\$7 50
2. P. B. X. systems, cord and cordless, per station---	3 00	3 00
3. P. B. X. switchboards, per position—		
Cordless -----	5 00	10 00
30-line -----	5 00	10 00
80-line -----	7 50	15 00
160-line -----	10 00	25 00
320-line -----	17 50	40 00
Over 320-line -----	Actual cost	

3. Other equipment and wiring.

Charges for moving or changing of equipment or wiring, other than that included under 1 and 2 above, will be an amount equal to the actual cost of labor and material involved.

4. Maintenance.

The charges specified above do not apply if the changes or moves are initiated by the Telephone Company and required for the proper maintenance of the equipment or service.

5. Change in class of service.

The charges specified above do not apply if the changes are required because of a change in type, class or grade of service.

Provided that said rules and regulations be filed with this Commission on or before May 29, 1925.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twenty-ninth day of April, 1925.

DECISION No. 14869.

ERVIN C. AND CLARENCE E. GEORGESEN, DOING BUSINESS UNDER
THE NAME OF SAN PASQUAL VALLEY TRUCK LINE,

vs.

CARL A. JENSEN.

Case No. 1986.

Decided April 30, 1925.

C. K. Fitzgerald, for Complainants.
L. N. Turrentine, for Defendant.

BY THE COMMISSION.

OPINION.

In this proceeding complainants allege that defendant is now and for months past has been transporting property between San Pasqual Valley and San Diego without valid authority in violation of the Auto Stage and Truck Transportation Act (Statutes of 1917, chapter 213, as amended), and that the property so transported was of such a character and the transportation was carried on under such conditions that complainants were deprived of the privilege of transporting the same, to their injury as common carriers under certificate obtained from this Commission. Complainants allege that the defendant has been transporting property between said termini in both directions daily, on schedule and over a regular route. They pray for an order requiring the defendant to cease such operations.

Defendant answered the complaint with the averment that he is engaged only in the movement of products or implements of farm husbandry and other farm merchandise from farm to farm or from and to farm to and from loading point and that as to such carriage he is not required to obtain a certificate of public convenience and necessity by reason of the amendment to section 5 of the Auto Stage and Truck Transportation Act of 1917 (chapter 310, Statutes of 1923). He asks the dismissal of the complaint.

A public hearing herein was conducted by Examiner Williams at San Diego, at which the testimony produced by complainants in our opinion clearly sustained the allegation that defendant daily picked up milk at a platform on the highway which milk had been delivered

to the platform by a producer, one Trussell, who combined the milk of other producers with his own and transported the same a distance of nine miles to the platform. It was also shown that defendant hauled feed from San Diego to the yard of one, Ashby, near which place the platform is located and that this feed was transported by Trussell from the yard to San Pasqual district approximately nine miles from the yard. There was also testimony that defendant had picked up milk of the Cloverdale Dairy, one mile from the point of production, it being delivered at the roadside by the producer. In all other respects the testimony showed that the defendant was performing a service in picking up milk from the point of production—the farm—and transporting the same to San Diego and that on return calls he had transported dairy feed and other animal food, and also ice required for pre-cooling milk, delivering the same at farms except in the instances noted above. There was also testimony by John Nusardi, a driver of one of complainant's trucks, that he had observed defendant transporting eggs and laundry between San Diego and Poway.

It was stipulated by the parties that complainants possess a certificate from the Railroad Commission authorizing their regulated transportation service between San Pasqual and San Diego and that defendant possesses no certificate of public convenience and necessity to operate a transportation service of any character.

It appears from the testimony that defendant organized a daily transportation service for producers of milk, and that in every instance, except those noted above, the milk to be transported to San Diego has been delivered to defendant at the farms, usually on a platform at the roadside. It also appears that this service was formerly given by complainants and that some of the same platforms were used. There was little dispute as to the facts incident to the hauling, and the parties joined in seeking from the Commission a determination of the rights of each under the Auto Stage and Truck Transportation Act.

On April 27th the Supreme Court, in *Franchise Motor Freight Association vs. Railroad Commission*, held unconstitutional the proviso in section 5 of the Auto Stage and Truck Transportation Act by which the transportation of farm products is exempted from the provisions of the act. The court there said:

* * * What reasonable ground of distinction is there between a common carrier engaged in the business of hauling various kinds of freight, including products and implements of husbandry, by motor truck over a regular route upon the public highway and another common carrier engaged in the business of hauling freight which consists solely of the products and implements of husbandry by motor truck over the same route, which justifies the subjection of the one to the regulations imposed by the Auto Stage and Truck Transportation Act, and the exemption of the other from the burden of those regulations? The only basis for such a distinction which has been suggested to us is that a continuance of the development of the state demands that the cultivation and marketing of farm products be encouraged and assisted and that the intent of the legislature in making this provision was the

encouragement of the farmers to larger production and the assurance of accessibility of markets for that production, to the end that the products of the soil might be placed within the ready reach of all and their production fostered and assisted. This suggestion, as it seems to us, overlooks the main purpose of the regulation of rates and charges provided for in the constitution, and of the regulation of service, competition, safety provisions, issuance of securities, etc., provided for in the act here in question. It seems plain to us that the primary purpose of such regulation is to insure the adequacy, regulatory and reliability of service and the reasonableness of rates and charges therefor. Such regulation is for the benefit of the producing and consuming public. It follows that the exemption from regulation of those transportation companies engaged in hauling farm products and implements would be a detriment, rather than a benefit to the farmers, as well as to the public generally, and would be of benefit solely to the particular class of transportation companies so exempted.

* * * We are impelled to conclude that no natural, intrinsic or constitutional distinction is to be found as a basis for the exemption of the transportation companies described in the 1923 amendment, *supra*, from the regulations prescribed in the Auto Stage and Truck Transportation Act, and that such attempted exemption is violative of the fourteenth amendment to the federal constitution and of like provisions in our state constitution.

This decision necessarily nullifies the exemption contained in section 5 of the act. The transportation of products or implements of husbandry and other farm necessities are therefore amenable to all the provisions of the act to the same extent as the transportation of any other property.

ORDER.

A public hearing having been held in the above-entitled proceeding, evidence having been received from both parties, and the matter having been duly submitted, the Commission hereby finds as a fact:

That the defendant, Carl A. Jensen, has been, and now is engaged in the transportation of property over the public highways, for compensation, between fixed termini and over regular routes without having obtained from this Commission a certificate declaring that public convenience and necessity require such transportation;

And basing its conclusions upon the findings of fact and statements of the within opinion, the Commission hereby concludes that the said operations of Carl A. Jensen should be discontinued pending the receiving of such a certificate as provided by chapter 213, Statutes of 1917, as amended; and to that end

It is hereby ordered, that the said defendant, Carl A. Jensen, be and he is hereby directed to cease and hereafter desist from any and all such transportation unless and until he shall have secured from this Commission a certificate that the public convenience and necessity require the resumption or continuance thereof; and

It is hereby further ordered, that the secretary of this Commission be and he is hereby directed to serve, or cause personally to be served, upon said defendant, Carl A. Jensen, a certified copy of this decision; and

It is hereby further ordered, that the secretary of this Commission be and he is hereby directed to forward a certified copy of this decision to the district attorney of San Diego County.

Dated at San Francisco, California, this thirtieth day of April, 1925.

DECISION No. 14870.

ALBERS BROS. MILLING COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2063.

Decided April 30, 1925.

RATES—STEAM RAILROAD—CEREAL FOOD PRODUCTS—REPARATION.—Rates of 48 cents per 100 pounds on wheat shipped from Seymour and Subaco to Los Angeles, milled in transit at Oakland; and 59 cents per 100 pounds, Seymour to Riverside, found unreasonable. Rates of 41 cents and 52 cents found reasonable. Reparation awarded.

C. S. Connolly, for Complainant.

H. W. Klein, L. B. Young and F. W. Mielke, for Defendant.

BY THE COMMISSION.

OPINION.

Complainant is a corporation engaged in buying and selling grain and manufactured grain products.

By complaint filed November 3, 1924, it is alleged that the rates charged on cereal foods and flour, from Oakland to Los Angeles and Riverside, which had been milled in transit at Oakland out of wheat shipped to that point from Seymour and Subaco stations, on the Sutter branch of the Southern Pacific Company, were unjust, unreasonable and in violation of sections 13 and 19 of the Public Utilities Act. The rates assessed were 48 cents per 100 pounds on nine carloads moved to Los Angeles, and 59 cents per 100 pounds on one carload moved to Riverside during the period August 1, 1923, to May 1, 1924.

It is alleged that the through rate to Los Angeles, including milling in transit at Oakland, from Seymour and Subaco, should not have been in excess of $5\frac{1}{2}$ cents per 100 pounds, and from Seymour to Riverside $6\frac{1}{2}$ cents per 100 pounds over and above the rate of 35 cents per 100 pounds applying from Grace to Los Angeles, and 46 cents per 100 pounds from Grace to Riverside. Grace station is the junction point with the Sutter Basin branch.

It is further alleged that the subsequently established rate of 42 cents from Seymour and Subaco to Los Angeles is also unjust, unreasonable and in violation of section 13 of the Public Utilities Act.

We are asked to establish just, reasonable and nondiscriminatory rates for the future and to award reparation.

Rates will be stated in cents per 100 pounds.

A public hearing was held February 26, 1925, before Examiner Geary, and the matters having been duly submitted, the case is now ready for an opinion and order.

The shipments here in question consisted of grain, originating at Seymour and Subaco, milled in transit at Oakland, destined Los Angeles and Riverside. The flour rates from point of origin to destination, and out-of-line haul for milling in transit at Oakland, were assessed and collected in accordance with the milling in transit rules and regulations as set forth in Southern Pacific Tariff 230-I, C. R. C. 2826 and, therefore, are not involved in this proceeding.

Seymour and Subaco are located in the Sacramento Valley on the Sutter Basin branch of the Southern Pacific, 6 and 10 miles respectively, from the main-line junction, Grace. Seymour is 486 and Subaco 489 miles from Los Angeles. Seymour is 550 miles from Riverside. The rates collected were the Grace combination—13 cents from Seymour and Subaco to Grace—plus 35 cents from Grace to Los Angeles, and 46 cents from Grace to Riverside. The 13-cent factor was the applicable Class A, and the factors from Grace, commodity rates.

The 35-cent rate from Grace to Los Angeles is a blanket rate and applies from Tajiguas on the Coast line, Cable in the San Joaquin Valley on the south and Marysville on the north, but does not apply from branch-line points within that territory. The following data, taken from exhibits submitted, is representative of the branch-line differential existing in the Sacramento Valley and of rates in effect from branch-line points in that territory for distances comparable with those here in question:

From	Distance		Rate		Differential for branch line service
	To Los Angeles	To main line junction	To Los Angeles	To Los Angeles from main line junction	
Seymour -----	486	6	*.48	*.35	*.13
			†.42	.35	†.07
Subaco -----	489	9	*.48	*.35	*.13
			†.42	.35	†.07
Hartley -----	484	9	.40½	.35	.05½
Allendale -----	486	11	.41½	.35	.06½
Wolfskill -----	490	15	.43½	.35	.08½
Fruto -----	551	17	.48½	.40	.08½
Millsholm -----	544	10	.45½	.40	.05½
Athens -----	548	14	.46½	.40	.06½
Colusa -----	517	25	.45½	.40	.05½
Hamilton -----	555	9	.45½	.40	.05½

*Effective at time shipments moved.

†Subsequently established, effective August 1, 1924.

The Sutter Basin Branch is served by side trips made by regular trains operating between Marysville and Woodland. These side trips are made normally three times a week, except during the busy grain shipping season when trips are made every day.

Defendant testified that the serving of this branch line by main-line trains is expensive, but other branch lines of the defendant's are also served by main-line trains where the branch-line differential for such service is less than that existing on the Sutter Basin branch.

Complainant had been negotiating with the defendant, for some time prior to the filing of this proceeding, in an endeavor to secure through published rates from Seymour and Subaco lower than the available combination, but it is stated that because the expected traffic of 55,000 tons per annum from points on the Sutter Basin branch, the forecast of annual tonnage made in 1920 upon which the construction of the line was based, did not materialize until the latter part of 1924, defendant did not feel justified in reducing the rates until August 1, 1924. In an exhibit submitted it was shown that 45,743 tons, or 83 per cent, of the expected tonnage had developed during the year 1923 and that during the year 1924 that branch produced 87,436 tons, or more than was estimated when construction of the line was under consideration. While the volume of traffic is an element to be considered in determining the reasonableness of a rate, it is not the only controlling factor, being but one of the many elements to be considered. The realization or nonrealization of the forecast of tonnage which caused the construction of the Sutter Basin branch, is not the governing measure by which reasonable rates should be judged.

Defendant submitted exhibits naming rates from branch-line points in the San Joaquin Valley; these exhibits indicate a maximum rate of 40½ cents to Los Angeles, which is 5½ cents over the main-line rates. The 5½ cents differential is, in many instances, for distances in excess of those existing on the Sutter Basin branch.

A rate of 41 cents from Seymour and Subaco to Los Angeles would yield a per ton mile revenue of .016 cents, and rate of 52 cents from Seymour to Riverside would yield a per ton mile revenue of .018 cents per ton mile. The per ton mile revenue for the longer haul, to Riverside, is greater than for the shorter to Los Angeles, but this is because of the prevailing water-compelled adjustments to the Los Angeles territory. Based upon the average loading of 65,600 pounds, for the year 1923, of flour and commodities taking flour rates, between northern and southern California, the 41-cent rate would yield 55 cents per car mile and \$268.96 per car; the 52-cent rate yields 62 cents per car mile and \$341.12 per car.

No evidence of undue discrimination was submitted, and there will be no finding on that allegation.

Under the circumstances, we find that the rates assessed and collected on complainant's shipments were unjust and unreasonable to the extent they exceeded 41 cents per 100 pounds, minimum weight 40,000 pounds, from Seymour and Subaco to Los Angeles, and 52 cents per 100 pounds, minimum weight 40,000 pounds, from Seymour to Riverside, which rates we find just and reasonable for the future.

Complainant made the shipments as described, paid and bore the charges thereon upon the basis herein found unreasonable, and has been damaged in the amount of the difference between the charges paid and those that would have accrued upon the basis herein found just and reasonable and is entitled to reparation with interest. The complainant should submit statement to the defendant of shipments for check. Should it not be possible to reach an agreement, the matter may be referred to this Commission for further consideration and the entry of a supplementary order should such be necessary. Details of the shipments made subsequent to the hearing may be included in the reparation statement filed hereunder if accompanied by appropriate proof, in the form of an affidavit, that the shipments were made and the freight charges thereon were paid and borne by the complainant.

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which opinion is hereby referred to and made a part hereof;

It is hereby ordered, that Southern Pacific Company be and it is hereby notified and required to establish on or before June 1, 1925, upon notice to this Commission and to the general public by not less than five (5) days' filing and posting in the manner prescribed in section 14 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of flour and articles taking the same rates, as shown in Southern Pacific Tariff 659-C, C. R. C. 2500, earloads, minimum weight 40,000 pounds, 41 cents per 100 pounds from Seymour and Subaco to Los Angeles, and 52 cents per 100 pounds from Seymour to Riverside.

It is hereby further ordered, that Southern Pacific Company refund with interest to Albers Bros. Milling Company all charges on shipments involved in this proceeding that may have been collected in excess of 41 cents per 100 pounds from Seymour and Subaco to Los Angeles, and 52 cents from Seymour to Riverside, rates found to be reasonable for

the transportation of flour and articles taking the same rate, as shown in Southern Pacific Tariff 659-C, C. R. C. 2500.

Dated at San Francisco, California, this thirtieth day of April, 1925.

DECISION No. 14871.

IN THE MATTER OF THE APPLICATION OF LAKE COUNTY TELEPHONE ASSOCIATION FOR PERMISSION TO INCREASE RENTALS OF PHONES AND TOLL SERVICE.

Application No. 10115.

Decided April 30, 1925.

RATES — TELEPHONE UTILITY — DISCRIMINATION — FACILITIES OF SERVICE. — Discrimination in favor of stockholder-subscribers ordered eliminated. Utility directed to acquire subscriber-owned instruments. Uniform rules and regulations prescribed as a condition for establishing uniform revised rates. All subscribers should be charged same rates for toll calls out of central station.

H. W. Bemis, for Applicant.

G. L. Hildebrand, for Subscribers on Kelseyville-Lower Lake Telephone Line, Protestants.

BY THE COMMISSION.

OPINION.

Lake County Telephone Association, a corporation, applicant in this proceeding, owns and operates a telephone system, consisting of a switchboard and wire lines, located in Kelseyville, Lake County, and adjacent territory. Two of applicant's lines, one of which is a metallic circuit, extend to the switchboard of the Lakeport and Blue Lakes Telephone Association in Lakeport and are used as combination subscribers' lines and toll lines. In addition to service furnished over its own lines, applicant also furnishes switching service to some thirty-seven subscribers who own and maintain their telephone instruments and lines from their instruments to applicant's central office.

Applicant does not own or maintain any telephone instruments in operation except those in its central office.

In this proceeding, applicant asks that this Commission issue an order authorizing it to make effective certain increases in rates and charges for telephone service. Applicant desires to increase rates for switching service furnished to subscribers who own and maintain their lines from 25 and 50 cents per month per station to \$1 per month per station. Increases are also asked in connection with certain toll rates and compensation as agent of California Telephone and Light Company. A public hearing was held before Examiner Satterwhite at Lakeport, September 3, 1924.

An inventory and appraisal of applicant's telephone property as of October 1, 1922, was made by Mr. F. M. Casal, assistant engineer.

This appraisal was brought down to the date of September 1, 1924, by adjusting for additions and betterments and plant removed from service during the period October 1, 1922, to September 1, 1924. Mr. Casal also made a study of the available books of applicant. The results of these studies of operating revenue and expenses for year March 1, 1924, to February 28, 1925, and rate base as of September 1, 1924, which has been assumed as an average for the foregoing year period, are shown in Tables I and II following:

TABLE I.

Rate Base.

Historical reproduction cost, undepreciated, of plant as of October 1, 1922 (less materials and supplies)-----	\$2,055 00
Additions and betterments from October 1, 1922, to September 1, 1924--	540 00
Total -----	\$2,595 00
Plant removals from October 1, 1922, to September 1, 1924-----	154 00
Historical reproduction cost, undepreciated, as of September 1, 1924 (less material and supplies) -----	\$2,441 00
Material and supplies -----	159 00
Working cash capital -----	138 00
Rate base as of September 1, 1924-----	\$2,738 00

TABLE II.

*Estimated Operating Revenues and Expenses for Year,
March 1, 1924, to February 28, 1925.*

Revenues—	
Exchange revenue, present rates-----	\$1,773 00
Toll revenue, present rates-----	388 69
Total revenue -----	\$2,161 69
Expenses—	
Maintenance -----	\$442 00
Depreciation -----	93 00
Traffic -----	1,028 00
Commercial and general -----	186 50
Taxes -----	65 44
Uncollectible bills -----	11 00
Total expenses -----	1,825 94
Balance for interest -----	\$335 75

The results as shown in Table II do not indicate that applicant is entitled to or needs relief in the form of increased rates. It is doubtful, however, whether applicant realizes, even approximately, an amount in actual cash as is indicated by this table, for the reason that it has employed in the past an ineffective bookkeeping system. It appears that applicant is only partially fulfilling its obligations to the public in the telephone service furnished. Cooperation between the users and the telephone utility is necessary in making satisfactory telephone service possible. We do not believe, however, that the coopera-

tion on the part of the user to the extent of supplying and maintaining his own telephone instrument is either necessary or desirable in the case of installations where all other equipment and plant are owned and maintained by the utility. The plan of subscriber-owned telephone instruments followed by applicant results in divided responsibility for the service rendered and leads to poor transmission complaints which applicant is unable to adjust except by advising the subscriber at fault to make the necessary repairs or replacements. This condition should be removed by the applicant acquiring ownership and assuming the maintenance of all telephone instruments served by its lines. Exception is made in the case of the telephone instruments connected to so-called farmers' lines where the lines as well as the instrumentalities are owned by the subscribers.

The acquisition by applicant of all telephone instruments will result in increase in its operating expenses as well as in its capital invested. Applicant is entitled to revenue sufficient to earn a fair return after reasonable expenses have been paid. The order following will provide for certain rate increases contingent upon the acquisition by applicant of all telephone instruments connected to its lines, excluding such instruments as may be connected to farmers' lines.

The rates now being charged by applicant, together with those which it herein proposed, are shown in Table III.

TABLE III.
Exchange Telephone Service.

	Present rates. Rate per month per station	Applicant's proposed rates. Rate per month per station
(1) Subscriber's business or residence service—		
Individual line service, instrument owned and maintained by subscriber -----	\$2 50	\$2 50
Party line service to renters, instrument owned and maintained by subscriber -----	1 75	1 75
Party line service to stockholders, instrument owned and maintained by subscriber -----	1 50	1 50
Farmer line service, line and instrument owned and maintained by subscriber, except Seigler Springs line -----	50	1 00
Farmer line service, line and instrument owned and maintained by subscriber, Seigler Springs line -----	25	1 00
(2) Public telephone service—		
Each exchange message -----	10	10
The above message rate is applied to service to any local line, to nonsubscribers only, when the call is placed from applicant's central office.		
(3) Public toll telephone service—		
Kelseyville to Lakeport, unlimited time, per message -----	10	15
The above message rate is applied to service rendered nonsubscribers only, when call is placed from applicant's central office.		

In addition to the increases in rates shown in Table III above, applicant asks permission to make other charges which would, in effect, increase the rates and charges for service offered by other utilities. Applicant's request for such increases in charges may not be considered as properly a part of this proceeding.

In applicant's present and proposed rates a different rate is made for stockholders and nonstockholders who receive the same grade of service. We believe that this differential should not exist. Applicant is also granting certain rate concessions in service furnished. All concessions in rates should be carefully limited by applicant to those who may receive such concessions as defined by law. The practice of applicant of charging a different rate to nonsubscribers and subscribers for messages originating at the public telephone in its central office should be discontinued. Any preferential right which may accrue to an individual on account of his being a subscriber of applicant is associated only with the telephone instrument installed for his own use. All individuals should be charged alike for calls made from applicant's central office.

We believe that applicant's proposal with reference to the increase in rate asked for farmer line service is not justified either by service rendered or financial necessity. The rate for this service should be uniform to all subscribers and the order following will so provide. While it is true that farmer line subscribers receive the same service as other subscribers of applicant in so far as availability of intercommunication is concerned, they receive a very much less service with reference to line maintenance than other subscribers, as applicant need not assume any responsibility for the maintenance of farmer lines. If, under certain conditions, it is found expedient for applicant to make repairs on farmer lines at the request of the owners of such lines, it appears that applicant should bill the owners for the cost of such work.

The estimated rate base and operating revenues and expenses under plan of applicant's ownership of all facilities served by its lines and under the Commission's proposed rates as set forth in the order herein are shown in Table V.

TABLE V.

*Estimated Operating Revenues and Expenses for Year March 1, 1925,
to February 28, 1926.*

Average rate base	-----	\$3,886 00
Operating revenues	-----	2,327 00
Operating expenses	-----	2,015 00
Balance. for interest	-----	\$312 00

From an examination of applicant's records it did not appear that a material increase in business might be expected in the near future and in making the computations shown in Table V above, no allowance has

been made for an increase in applicant's business during the year period shown.

ORDER.

Lake County Telephone Association, having applied to the Railroad Commission for an order authorizing it to increase certain of its rates for telephone service, a public hearing having been held and the matter having been submitted and now ready for decision.

The Railroad Commission of the State of California hereby finds as a fact that under present conditions of operation of applicant's property, the rates now in effect are not unjust and unreasonable; that better telephone service would result to subscribers of applicant and to the public if applicant acquire ownership and assume responsibility for proper maintenance of all telephone instruments connected to its lines, and that under this latter condition of operation of applicant's property the rates now in effect are unjust and unreasonable in so far as they differ from the rates set forth in the order herein.

Basing its order on the foregoing findings of fact and on such other findings and statements of fact as are set forth in the opinion preceding this order;

It is hereby ordered, that Lake County Telephone Association, after showing to the Railroad Commission that it has acquired ownership in and assumed the maintenance of all telephone instruments connected to its lines and upon supplemental order from the Railroad Commission, may modify its present rates for subscribers' service and toll rates between Kelseyville and Lakeport to the following:

EXCHANGE TELEPHONE SERVICE.

(1) Subscriber's business or residence service—	Rate per month per station
Individual line service, instrument owned and maintained by association -----	\$2 50
Party line service to renters, instrument owned and maintained by association -----	1 75
Party line service to stockholders, instrument owned and maintained by association -----	1 75
Farmer line service, line and instrument owned and maintained by subscriber, except Seigler Springs line -----	50
Farmer line service, line and instrument owned and maintained by subscriber, Seigler Springs line -----	50
(2) Public telephone service—	
Each exchange message -----	10
The above message rate is applied to service to any local line, to subscribers or nonsubscribers when the call is placed from association's central office.	
(3) Public toll telephone service—	
Kelseyville to Lakeport, unlimited time, per message -----	15
The above message rate is applied to toll service rendered to subscribers or nonsubscribers when call is placed from association's central office.	

It is hereby further ordered, that Lake County Telephone Association shall file with the Railroad Commission, in accordance with General Order No. 68, on or before July 1, 1925, a schedule of rates and rules and regulations governing telephone service as may be in effect as of June 1, 1925.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this thirtieth day of April, 1925.

DECISION No. 14872.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA HIGHWAY COMMISSION FOR AN ORDER AUTHORIZING THE INSTALLATION OF A PROPOSED HIGHWAY UNDER-PASS UNDER THE WESTERN PACIFIC RAILROAD COMPANY NEAR NORTH SACRAMENTO, SACRAMENTO COUNTY.

Application No. 10226.

Decided April 30, 1925.

GRADE CROSSINGS—SEPARATION OF GRADES—PUBLIC SAFETY PARAMOUNT.—It is the duty of the railroads, the public road authorities, and this Commission to protect the lives of the citizens of the state and to recognize the hazards to life and limb which exist at this as well as other grade crossings. In the attainment of such protection and the elimination of hazard, it is just as much the duty of this Commission to require that grade separation be properly arranged for highway traffic on the highways of the state as it is to require plans economically designed and suitable for railroad needs.

Paul F. Fratessa and Harlan D. Miller, for Applicant.
James S. Moore, Jr., for The Western Pacific Railroad Company.

Decoto, Commissioner.

OPINION ON REHEARING AND RECONSIDERATION.

Rehearing on the above entitled application was held at Sacramento on Tuesday, March 24, 1925, upon petition by The Western Pacific Railroad Company. At the rehearing the following stipulations were entered:

(1) By The Western Pacific Railroad Company: Public convenience and necessity require a separation of grades at the location applied for from a highway point of view.

(2) By The Western Pacific Railroad Company: The county road was in existence prior to 1907 at the time the railroad was built.

(3) By the State Highway Commission: That there would be no saving, by the railroad company in maintenance and depreciation by replacing the portion of the existing wooden railroad trestle across and over the highway and the automatic flagman protecting the highway crossing with the steel and concrete structure of the proposed grade separation,

The first stipulation implies no assumption on the part of the railroad company that it should be required to pay any portion of the cost of the separation and is further conditioned to the effect that it does not include the safety necessity of the separation, as the railroad company considers that conditions at this grade crossing are not hazardous and that no more hazard exists at this point than at any crossing at grade. On account of these conditions and further taking into consideration the fact that there have never been any accidents resulting in injuries or deaths at the existing crossing in a long period of years, the railroad company takes the position that it should not be required to pay any portion of the costs of this separation. However, it is willing, in order to cooperate and help traffic conditions on this main highway, to donate \$7,500 or about 25 per cent of the estimated cost of a subway.

This attitude on the part of railroad companies in regard to an apportionment of the cost of a grade separation based on conditions at the crossing and on the accident record of the crossing has been before the Commission in other applications and is particularly dealt with in Decision No. 10442 (Application No. 7634) (not printed).

The crossing under consideration is on the main trunk highway leading out of Sacramento to the north and east. This highway divides at Roseville, one route proceeding north to points on the east side of the Sacramento Valley and the other route proceeding northeast to Lake Tahoe and vicinity. From 8500 to 10,000 vehicles pass over this crossing per day. As recently as June of last year three applications (Decision No. 13704) (not printed) were granted the Highway Commission to separate grades with the Southern Pacific Company at Applegate and Weimar on the Lake Tahoe branch of this highway. Obviously this lateral route is not as important a road as is the main trunk highway near Sacramento now under consideration. The costs of these three grade separations were each equally divided between the Highway Commission and the railroad.

The engineering department of the Commission has, after two different surveys recommended a separation of grades at the point covered in this proceeding without, however, making any recommendation as to division of cost.

I can see no reason for any difference in treatment to be accorded a separation of grades at this particular grade crossing over the usual crossing at grade. The mere fact that both railroad and highway are on trestles and intersect in a plane above the ground level does not, in my opinion, change the treatment which is generally accorded a similar intersection at the ground level. In fact, the physical conditions at this crossing render a separation of grades easy to accomplish and cheaper in cost than the usual separation. I do not see that the

railroad's obligation to separate the grades of this crossing of a primary trunk highway should be less than the obligation of a railroad to abolish grade crossings on the principal branches of the highway.

The trestle on which the highway traffic runs corresponds to the roadway or pavement of a highway laid upon the ground and should be considered as other roadways or pavements are considered in ordinary grade crossing separations. At Sixteenth street, Sacramento (Case No. 1430, Decision No. 11316, 22 C. R. C. 607), a 20-foot grade crossing was replaced by a subway with two 18-foot clear openings and the costs apportioned equally between the Southern Pacific Company and the city of Sacramento. Traveled width of existing grade crossings should not be a controlling consideration in apportioning the cost or of determining the dimensions of grade separations by this Commission.

Counsel for the railroad company takes the stand that the building of a 30-foot subway is increasing the facilities of the highway and that the railroad should not be assessed with any part of the cost of increasing such facilities. Counsel cites Decision No. 12184; 23 C. R. C. 551 (Case No. 1870), Decision No. 12172; 23 C. R. C. 529, and Decision No. 12213; 23 C. R. C. 563 (Application No. 8996), in which separation of grades was ordered in the city of Bakersfield and in which The Atchison, Topeka and Santa Fe Railway Company was assessed with the full cost of an additional second track as a new railroad facility and contends that a similar policy should be followed in the present case with respect to the widening of the highway. I do not believe that the width of this highway trestle can be considered as an analagous case as I find on inspection in the field that the existing grade crossing is over forty-five feet in width and is composed of two portions of about equal widths; one portion is for the horizontal main trestle of the highway and the other, in the form of two wooden ramps, is for the lightly traveled existing roadway on the ground parallel to the trestle. It is possible, at present, by using these ramps, to drive from the trestle to the ground level road, or vice versa, or to continue along the ground level road. The conversion of these wooden ramps into a portion of a thirty-foot subway actually diminishes the present width of highway grade crossing and is analagous, to my mind, to the conversion of an existing little used railroad side track into a second main line at a separation of grades and is not in the nature of an increase of facilities.

A subway eighteen feet wide, as desired by the railroad company, could not in any event be constructed except in violation of General Order No. 26 of this Commission, which specifies a minimum width of twenty feet between walls of a subway with single opening and widths of twelve feet between walls of a subway with double opening.

The engineering department of the Commission testified through Assistant Engineer L. R. Kessing, that the additional cost of constructing a skew span had sometimes been apportioned on other than a 50-50 basis between the interested parties. I am able to find only four cases wherein discussion has been had in regard to difference in costs due to the construction of skew spans and as to the apportionment of the additional costs involved in such construction as compared to a right angle span. These proceedings are as follows:

Decision number	Application number	Kind of separation	Locality	Railroad company	Apportionment of costs
2026 (5 C. R. C. 945)	1061	Subway.	Roseville	S. P. Co.	75% of skew to highway; 25% to railroad.
8600 (Not printed)	5579	Subway	Jacumba	S. D. & A. Ry. Co.	75% of skew to highway; 25% to railroad.
13843 (25 C. R. C. 219)	5180	Subway	Christie	A. T. & S. F. Ry.	Apportioned equally between parties
13206 (24 C. R. C. 508)	9469	Subway	Aptos	S. P. Co.	Apportioned equally between parties

From the above decisions it would appear that no regular precedent has been followed, but in later years with the increase in importance of highway traffic, the tendency has been to consider the skew as a necessary part of highway subway construction to be apportioned equally between the parties.

The science of highway engineering has developed in the past ten years to a point where it is now comparable to good railroad engineering practice. Excessive curvature, heavy grades and sharp right-angle turns are no more tolerated in good practice in the construction of main state and county highways than they are in railroad construction, although the actual limiting curves and grades are not the same for both. The railroad companies should not request operating conditions on important roads which are relatively more burdensome than those which they would approve on their own lines. It has always been the policy of the Commission to endeavor to have the various plans for grade separations, in so far as they relate to the railroad from a structural and operating point of view, submitted to the railroad and declared satisfactory by them. It seems reasonable to ask similar consideration of the railroads to the satisfaction of the State Highway Commission or such other political subdivision as may be involved. This was the policy pursued at Christie and at Aptos and I see no reason why it should not be continued here.

The fact that no serious or fatal accidents have occurred at this crossing, or at any other particular crossing, during a period of from five to ten years is no conclusive measure of the hazard which exists. This principle is illustrated by the accident to the school bus at

Proberta crossing, where over a dozen high school children were killed, although the previous history of that long established crossing does not show a serious accident record.

The Western Pacific Railroad Company contends that lack of accidents or the failure to collect damages on crossing accidents represents an amount of zero on which to capitalize an expenditure for a grade separation, but I wish to call attention to the fact that it is the duty of the railroads, the public road authorities, and this Commission to protect the lives of the citizens of the state and to recognize the hazards to life and limb which exist at this as well as other grade crossings. In the attainment of such protection and the elimination of hazard, it is just as much the duty of this Commission to require that grade separation be properly arranged for highway traffic on the highways of the state as it is to require plans economically designed and suitable for railroad needs. The right of the people to proper, safe and easy access across a line of railroad has already been set forth by this Commission in Decision No. 6875; 17 C. R. C. 527 (Application No. 1446), in Decision No. 14244; 25 C. R. C. 552 (Application No. 10192), and in Decision No. 14259 (this proceeding). To this end and in the interests of safety it seems reasonable to insist on the establishment of subway grade separations with a wide span, light grades, a minimum of curvature on the approaching highways, and a reasonably long line of vision through the subway unless physical conditions and topography make the realizing of such installations impossible. These requirements can all be fulfilled at this location.

After taking all of the evidence into consideration, it appears that the former decision of the Commission in this proceeding should be sustained and it will be so ordered.

ORDER.

A further public hearing having been held on the above entitled application, after granting of petition for rehearing, the matter being again submitted and now ready for decision;

It is hereby ordered, that the Commission's order in this proceeding in Decision No. 14259, dated November 17, 1924, be and it is hereby sustained and shall in all respects remain in full force and effect.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of April, 1925.

DECISION No. 14876.

IN THE MATTER OF THE APPLICATION OF STAR AND CRESCENT BOAT COMPANY, A CALIFORNIA CORPORATION, FOR PERMISSION TO SELL CERTAIN OF ITS ASSETS.

Application No. 10912.

IN THE MATTER OF THE APPLICATION OF STAR AND CRESCENT BOAT CO. FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR LAUNCHES FOR THE TRANSPORTATION OF PERSONS FOR COMPENSATION, BETWEEN POINTS UPON THE INLAND WATERS OF THE STATE OF CALIFORNIA.

Application No. 10976.

Decided May 1, 1925.

Ralph E. Jenney, for Applicants.

SHORE, Commissioner.

OPINION.

In the above entitled applications, as amended at the hearing, the Railroad Commission is asked to make an order authorizing the sale of public utility properties, the issue of stock and declaring that public convenience and necessity require the Star and Crescent Boat Company to operate vessels for the transportation of freight and passengers between points on San Diego Harbor, more particularly referred to hereafter.

The Star and Crescent Boat Company, hereinafter sometimes referred to as the old company, was organized in 1914 under the name of the Crescent Boat Company. In 1916 the corporation name was changed by order of the superior court in and for the county of San Diego to Star and Crescent Boat Company. The original authorized capital stock of the corporation was \$75,000 divided into 75,000 shares of the par value of one dollar each. In 1920 the authorized capital stock of the corporation was increased to \$175,000 divided into 175,000 shares of the par value of one dollar each. Subsequently \$30,000 of stock was issued as a stock dividend, with the result that there is now outstanding \$105,000 of stock. The issue of the \$30,000 of stock was authorized by the Commissioner of Corporations, but not by the Railroad Commission. Authority to issue such stock is now requested. Of the \$105,000 of stock outstanding, O. J. Hall owns 52,497.2 shares, Ralph H. Chandler owns 52,497.2 and George Burnham 5.6 shares.

The Star and Crescent Boat Company has been, and is now, conducting three distinct classes of business. Under the fictitious name and style of the Star and Crescent Oil Company it has been and is now distributing petroleum products of the Associated Oil Company in San Diego County. Under the fictitious name and style of San Diego

Marine Construction Company it has been, and is now building and repairing boats and marine machinery and equipment. Under its own name, to wit, Star and Crescent Boat Company, it has been, and is now operating a general launch business on San Diego Bay, which includes the carrying of passengers in shore boats back and forth from wharf to ship and from ship to ship. It does some towing. It also operates a ferry line from its wharf at the foot of Broadway to the Government wharf at North Island, which is the United States Naval air station.

The Star and Crescent Boat Company now intends to change its name, if permitted by the superior court in and for San Diego County, to Star and Crescent Oil Company. It has caused to be organized under the laws of the State of California, a new corporation to be known as the Star and Crescent Boat Co. and proposes to transfer to such new company the property described in Exhibit "H" filed in Application No. 10912. The new company asks permission to issue \$68,000 of its common capital stock in payment for such properties. It is the plan of the old company when it receives such stock to distribute the same to its stockholders, with the result that the stock of the new company will be owned by stockholders of the old company, in the same proportion that they own stock in such old company.

Star and Crescent Boat Co., the new company, has an authorized stock issue of \$100,000 divided into 1000 shares of the par value of \$100 each. The properties which it intends to acquire are described in said Exhibit "H," and consist of six launches, eleven speed boats, two skiffs, landing floats, lighters, piers and pavilions, a Maxwell roadster, furniture and fixtures, stationery, prepaid rent and insurance, cash in the amount of \$1,000 and a franchise. The depreciated value of the assets to be acquired by the new company is reported at \$68,973.29, while the liabilities to be assumed by it are reported at \$962.66, leaving a net valuation of the assets of \$68,010.63. To acquire these properties, the new company asks permission, as stated above, to issue \$68,000 of its common stock. The valuation of \$68,973.29 includes \$5,000 as the value of the franchise to be acquired by the new company. Applicants' representatives were unable to advise the Commission of the amount actually paid to the grantor of the franchise. The evidence submitted does not warrant the Commission to authorize the company to issue any stock to acquire such franchise. The order herein will permit the issue of \$63,000 of stock, in full payment for the properties described in Exhibit "H" filed in application No. 10912.

The Commission is asked to authorize the Star and Crescent Boat Company, the old company, to sell the properties described in Exhibit "H" to the new company and to permit the old company to distribute to its stockholders the stock which it will receive in payment for the properties. Both of these transactions may be consummated without

an order from the Commission, and therefore the request of the old company to sell the properties and to distribute stock will be dismissed without prejudice.

In Application No. 10976 Star and Crescent Boat Co. asks permission to operate motor launches for the transportation of persons for compensation between North Island and San Diego via direct line, serving the following points or landings: Rockwell field, Naval air station, and San Diego. Applicant proposes to give approximately an hourly service between San Diego and the Naval air station, from 6.30 a.m. to midnight, and make approximately three trips a day between San Diego and Rockwell field. The service between the latter two points would be varied at the request of government authorities, such service being largely for government personnel occupied at Rockwell field. The service proposed by the new company is the same as that now given by the old company.

At the hearing had on the above entitled applications, it developed that the old company is conducting a freight business between points located in San Diego Harbor and between boats in the harbor and between wharves and docks in the harbor. It is the intention that this freight business shall be conducted by the new company, although no mention of such business is made in Application No. 10976. At the hearing, the new company asked permission to amend such application to cover freight business as well as passenger business. In view of the provision of section 50 (d) I do not believe that the Commission in this proceeding, on the basis of the present record, can authorize the Star and Crescent Boat Co. to conduct a freight business in San Diego harbor. No notice has been given of the filing of an application with the Commission for permission to conduct such business. While a notice of the hearing in Application No. 10976 was published, such notice on its face showed that the company was asking permission to operate motor launches for the transportation of persons. Neither in such notice or in the application itself was any mention made of the transportation of freight. I am of the opinion that if the Star and Crescent Boat Co. intends to conduct a freight business coming within the provisions of the Public Utilities Act, it should file with the Commission a formal application for permission to conduct such a business.

I herewith submit the following form of order:

ORDER.

The Star and Crescent Boat Co. having applied to the Railroad Commission for permission to issue stock, to acquire properties and to operate motor launches for the transportation of persons for compensation, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured

or paid for by the issue of the stock herein authorized is reasonably required by applicant, and that the above entitled applications should be granted as herein provided; therefore,

The Railroad Commission of the State of California hereby finds and declares that present and future public convenience and necessity require the operation by the Star and Crescent Boat Co. of motor launches for the transportation of persons for compensation between the points mentioned in Application No. 10976, provided the rates to be charged for such service are the same as the rates set forth in Exhibit "B," filed in Application No. 10976.

It is hereby ordered, that the Star and Crescent Boat Co. be and it is hereby authorized to issue \$63,000 of its common capital stock in full payment for the properties described in Exhibit "H," filed in Application No. 10912.

It is hereby further ordered, that the Star and Crescent Boat Company (the old company) be and it is hereby authorized to issue \$30,000 of its common capital stock to reimburse its treasury because of income expended for the acquisition of properties.

It is hereby further ordered, that Application No. 10912 in so far as it relates to the sale of properties by the Star and Crescent Boat Company (the old company), and the distribution of stock of Star and Crescent Boat Co. by such company be denied without prejudice.

It is hereby further ordered, that the request of Star and Crescent Boat Co. for permission to issue \$5,000 of stock and conduct a freight service be denied without prejudice for the reasons set forth in the preceding opinion.

The authority herein granted is subject to the following conditions:

1. The Star and Crescent Boat Co. shall file within a period of not to exceed 30 days from the date hereof its formal acceptance of the certificate herein granted.

2. The Star and Crescent Boat Co. and the Star and Crescent Boat Company shall keep such record of the issue and delivery of the stock herein authorized as will enable them to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. Under the authority herein granted, Star and Crescent Boat Co. shall commence service within 90 days after the date hereof. No stock may be issued or delivered after 90 days after the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of May, 1925.

DECISION No. 14877.

CALIFORNIA FRUIT GROWERS EXCHANGE

vs.

LOS ANGELES AND SALT LAKE RAILROAD COMPANY, SOUTHERN
PACIFIC COMPANY.

Case No. 2106.

Decided May 1, 1925.

BY THE COMMISSION.

OPINION.

Complainant is a cooperative association engaged in the production and marketing of citrus fruits, with its principal place of business at Los Angeles, California.

By complaint filed February 19, 1925, as amended March 27, 1925, it alleges that during the period from February 20, 1923, to May 10, 1923, it shipped and bore the freight charges on 19 carloads of citrus fruits from Arroyo Park to San Francisco, Oakland and Stockton, and that during the period March 17, 1924, to May 13, 1924, it shipped and bore the freight charges on 10 carloads of citrus fruits from Ontario to San Francisco, Oakland and Stockton. The movement from both Arroyo Park and from Ontario was via the Los Angeles and Salt Lake Railroad to Los Angeles, thence via the Southern Pacific to destinations. Charges were assessed at the applicable rate of 46 cents per 100 pounds from Arroyo Park and 51 cents per 100 pounds from Ontario. Both rates were a combination of class and commodity rates over Los Angeles. The factors from Arroyo Park and Ontario to Los Angeles were the applicable Class C rates of 10½ cents per 100 pounds and 15½ cents per 100 pounds, respectively, as published in Los Angeles and Salt Lake Railroad Company's Tariffs C. R. C. Nos. 260 and 294. The factor from Los Angeles to destinations was 35½ cents per 100 pounds, as published in Southern Pacific Company's C. R. C. 2503, for shipments from Arroyo Park, and C. R. C. 2865, for shipments from Ontario.

Reparation is sought in the amount of \$812.47.

It is alleged by complainant that the charges via the route over which the shipments moved should not have been in excess of 35½ cents per 100 pounds from Arroyo Park and 45 cents per 100 pounds from Ontario, which rates were subsequently established, effective January 11, 1925, in Agent F. W. Gomph's C. R. C. 274.

Defendants admit complainant's allegations. Therefore, under the circumstances, a public hearing will not be necessary.

After due consideration we find that complainant made shipments as described in statements attached to and made a part of the complaint,

paid and bore the charges thereon, and that upon carriers' admission that the amount collected was excessive, reparation should be awarded.

We are of the opinion that complainant has been damaged in the amount of the difference between the charges collected and those that would have accrued at the subsequently established rates of 35½ cents per 100 pounds from Arroyo Park and 45 cents per 100 pounds from Ontario and is entitled to reparation in a sum not to exceed \$812.47. Complainant should submit a statement of the shipments to defendants for check. Should it not be possible to reach an agreement, the matter may be referred to the Commission for further consideration and the entry of a supplemental order, should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Los Angeles and Salt Lake Railroad Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized to pay to complainant, California Fruit Growers Exchange, all charges they may have collected in excess of 35½ cents per 100 pounds for the transportation of 19 carloads of citrus fruits moving during the period February 20, 1923, to May 10, 1923, both dates inclusive, from Arroyo Park to San Francisco, Oakland and Stockton, and all charges they may have collected in excess of 45 cents per 100 pounds for the transportation of 10 carloads of citrus fruits moving during the period March 17, 1924, to May 13, 1924, both dates inclusive, from Ontario to San Francisco, Oakland and Stockton, as shown in statement attached to and made a part of the complaint, as reparation account excessive rates.

Dated at San Francisco, California, this first day of May, 1925.

DECISION No. 14881.

IN THE MATTER OF THE APPLICATION OF VALLEY TRANSIT COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONTINUE TO OPERATE THE VARIOUS STAGE LINES MENTIONED HEREIN ON A THROUGH ROUTE AND JOINT FARE BASED ON COMBINATIONS OF LOCALS OVER JUNCTION POINTS.

Application No. 10279.

IN THE MATTER OF THE APPLICATION OF VALLEY TRANSIT COMPANY, A CORPORATION, TO LEASE TO CALIFORNIA TRANSIT COMPANY, A CORPORATION, ITS OPERATIVE RIGHTS AND EQUIPMENT.

Application No. 10687.

Decided May 2, 1925.

TRANSPORTATION—AUTO STAGES—THROUGH SERVICE.—Valley Transit Company and California Transit Company authorized to consolidate operative rights as one uniform system, and to render through service thereover.

Earl A. Bagby, for Valley Transit Company and California Transit Company.

E. T. Lucey, for The Atchison, Topeka and Santa Fe Railway Company, protestant.

BY THE COMMISSION.

OPINION.

In Application No. 10279, Valley Transit Company asks for a certificate of public convenience and necessity authorizing it to consolidate its operative rights and to continue giving through service over all its various stage lines under joint fares based on a combination of locals.

In Application No. 10687, as amended, Valley Transit Company asks permission to lease and sell to California Transit Company all of its operative rights and properties, subject to the terms and conditions of a lease and conditional contract of sale, dated February 16, 1925, a copy of which is filed in said proceeding as applicant's Exhibit "A."

California Transit Company asks permission to unify

said rights with those of the California Transit Company, thereby uniting all of the operative rights of the California Transit Company and Valley Transit Company into one complete system of operation with authority to sell through tickets and establish such through service between points served by the California Transit Company and points served by the Valley Transit Company as may seem to the best interests of the public service.

Public hearings in these matters were held before Examiner Satterwhite in Fresno on the seventeenth and eighteenth of February, 1925. The two applications were consolidated for the purpose of receiving evidence and for decision, were duly submitted and are now ready for decision.

Applicants report that California Transit Company is engaged in the operation of automobile stage lines as a common carrier of passengers and express over the following routes:

Sacramento-Stockton-Merced, Oakland-Merced, Oakland-Stockton, Stockton-Sacramento, Stockton-San Jose, all of which rights were originally acquired prior to May 1, 1917; and also

Oakland-Vallejo, Oakland-Napa, Vallejo-Sacramento, Oakland-Rodeo-Martinez and San Francisco-Oakland for passengers south of Livermore and intermediate points on said routes.

and that Valley Transit Company operates as a common carrier of passengers and express over the following routes:

Fresno-Madera, Fresno-Merced, Fresno-Bakersfield via Tulare, Fresno-Bakersfield via Visalia, Visalia-Bakersfield via Exeter-Lindsay-Porterville, Fresno-Porterville with intermediate stations of Malaga-Fowler-Selma-Kingsburg-Traver-Goshen-Visalia-Farmersville-Exeter-Lindsay and Strathmore, Fresno-Kingsburg (2) Fresno-Dinuba, Dinuba-Visalia, Visalia-Tulare, Tulare-Lindsay-Porterville.

In a general way, California Transit Company is operating between Sacramento, San Francisco and Oakland and other points south to Merced, and Valley Transit Company is operating from Merced to points south, as shown in the preceding paragraph. On May 22, 1924, the two companies issued their Joint Passenger Tariff, effective June 24, 1924, publishing one way and round trip passenger fares between points on the routes of one company to points on the routes of the other. On December 17, 1924, the companies executed car leasing agreements, by the terms of which one company leased to the other such of its equipment as might be at the terminal connecting with the lines of the other company, the rental under such leases being computed at the rate of ten cents per car mile operated over the lines of the lessee. Two leases were executed, one from California Transit Company to Valley Transit Company, and the other from Valley Transit Company to California Transit Company.

First, giving consideration to Application No. 10279, it seems that we are asked by Valley Transit Company to make an order consolidating, under one blanket certificate, a number of certificates that had been acquired by it from time to time over a period of years. In this connection reference is made to our Decision No. 9892, dated December 20, 1921 (Vol. 20, Opinions and Orders of the Railroad Commission of California, page 1038), in which it was held that operative rights under certificates separately granted can not be lawfully combined for the establishment of a through service unless a certificate of public convenience and necessity authorizing such through service is first obtained. The Commission recognized, however, that the existing operations of many companies would be affected by such a decision and indicated that it would allow a reasonable time within which applications might be filed for certificates to place all operations on a basis consistent with its conclusions.

Valley Transit Company reports that continuously since acquiring the operative rights of the various routes, to which reference is hereinabove made, it has maintained through service over such routes, selling through tickets based on a combination of locals. The application it has now filed indicates that its request for a blanket certificate is made pursuant to the requirements of Decision No. 9892, although it clearly appears that a number of the operative rights it owns were acquired subsequent to the time the Commission made the order, and some of them under decisions which recited that through service should not be given, unless subsequently permitted by the Commission by formal order.

It seems that this is a case where a company has extended its operations in excess of the rights granted by the Commission and now comes before the Commission asking for an order approving or ratifying such

operations. In support of its request it alleges in the application that its through service has become a recognized fact to its patrons, that should it be compelled to discontinue its through service, there would result confusion in the sale of tickets and inconvenience to the public and that the granting of the blanket certificate as applied for, will not change its mode of operation. We do not believe that these statements by themselves constitute a sufficient showing upon which the Commission can base an order granting the application. The issue presented in this application is whether or not present and future public convenience and necessity require the operation by Valley Transit Company of through service over all its routes as a unified system. After giving careful consideration to the evidence introduced at the hearing, however, we are of the opinion that it has been clearly shown that public convenience and necessity are better served if the various routes are consolidated instead of separated and that it is not contrary to the interests of public policy to grant the application. Had the company been unable to make such a showing the Commission would not necessarily be bound to grant the application merely because through service had been given by the company in the past.

Valley Transit Company was organized on or about April 5, 1920, subsequent to the effective date of the Auto Stage and Truck Transportation Act. The operative rights it owns and which it now proposes to bring under one blanket certificate were acquired by it pursuant to authority granted by the Commission as follows:

<i>Decision</i>	<i>Application</i>	<i>From Whom Acquired</i>	<i>Description of Route.</i>
8869	6433	J. C. Walling-----	Between Fresno and Bakersfield via Malaga, Fowler, Selma, Kingsburg, Traver, Goshen, Visalia, Farmersville, Exeter, Lindsay, Strathmore, Porterville, Terra Bella, Ducor, Richgrove, Delano, McFarland and Famosa, Kimberlena, Lerdo and Seco.
9507	7067-8	J. C. Walling and C. H. Alexander; J. C. Walling, C. H. Alexander and Carl Allen.	Between Fresno and Madera; Fresno and Hanford; Fresno and Bakersfield via Tulare; Fresno and Kingsburg; and Madera and Merced.
10227	7609	A. A. Crabb, E. C. Morgan and E. Crabb.	Fresno and Kingsburg.
10508	7853	R. O. Hagan-----	Fresno and Selma.
12437	9251	A. C. McVey-----	Fresno and Dinuba via Fowler, Selma, Parlier, and Reedley.
13692	9849	Joseph Miller -----	Visalia and Dinuba, via Yettum, Cutler, Orosl and Sultana; Tulare and Porterville via Lindsay and Strathmore; Tulare and Visalia via Mooney Grove.

By Decision No. 13692 the Commission also authorized Valley Transit Company to sell and transfer the right to operate between Fresno and Hanford, which previously had been acquired pursuant to Decision No. 9507.

On the routes acquired from A. C. McVey pursuant to Decision No. 12437 it appears that there are certain restrictions with respect to the transportation of passengers locally between Fresno, Fowler and Selma, and Selma and Parlier, and also with respect to the transportation of express, it being limited to packages of fifty pounds or less.

However, under the rights acquired pursuant to Decision No. 8869 and Decision No. 10508, Valley Transit Company may operate stages for the transportation of passengers locally, and of express without the fifty-pound restriction, between Fresno, Fowler and Selma, so that at present it is restricted in carrying local passengers only between Selma and Parlier. Moreover, in making the present order permitting the consolidation of the company's routes, we believe the restriction on the transportation of express over the Fresno-Dinuba route should be eliminated for the purposes of uniformity.

Coming now to Application No. 10687, it appears that it is the desire of California Transit Company to acquire the unified operative rights of Valley Transit Company and to consolidate them with those it now owns, forming one complete system and enabling it to sell tickets and transport passengers, so far as possible, from any point on one line to destination on the other without the inconvenience of changing cars.

It alleges that there is an insistent public demand for the through service proposed; that passengers must now change cars at Merced in traveling between points north and south thereof, except for the car leasing agreements, referred to above, which, however, are now said to be cumbersome and impracticable in operation; that the consolidation of the two lines would permit the placing at the disposal of the public of a number of limited stages of the latest improved type; that it has available the complete plant of the California Body-building Company for the construction of the latest type of stages for the purpose of serving all lines owned or operated by it; that it is financially and physically able to operate the lines of Valley Transit Company in an adequate and efficient manner; and that the joinder of the rights of the two companies will not in any manner curtail any present service or create any new or different service or enlarge any existing service.

However, in our opinion, the linking up of the lines of the two companies is an expansion and enlargement of the present operative rights and the creation of a new transportation service requiring a new certificate of public convenience and necessity. Applicants introduced a considerable volume of testimony to show that public convenience and necessity require the operation of through stages from points on one line to points on the other. In Exhibits "6" and "7" they report that during the months of July, August and December, 1924, which are said to be typical months, 5801 passengers were carried over the lines

of the two companies from points on the California Transit Company's system to points on the Valley Transit Company's system, and 6480 passengers from the Valley Transit Company to the California Transit Company. It is alleged, and the exhibits indicate, that the demand for service from the routes of one company to those of the other is not localized, but extends to all points.

In this connection, a number of witnesses, some of whom were ticket agents and representatives of the carriers, and others, representatives of municipalities, private industries and public organizations along the lines of applicants, testified as to the requests from passengers for through service and as to the complaints and inconvenience caused by the changing of cars.

California Transit Company on April 13, 1925, filed with the Railroad Commission an application, No. 11005, for a certificate of public convenience and necessity to consolidate its operative rights and establish certain through service over separate operative rights. Said Application No. 11005 is now pending before the Commission. In view of the request contained in Application No. 11005, and in further view of the fact that the testimony in the two proceedings referred to herein, does not show the necessity for consolidating all of the operative rights of California Transit Company, we believe that such company should not in this decision be authorized to consolidate all of its existing operative rights, and that the order herein should be limited to the consolidation of the operative rights of Valley Transit Company, the lease and sale of such rights to California Transit Company, and the establishment of a through service over the operative rights of Valley Transit Company and those of California Transit Company extending from Sacramento to Stockton, Stockton to Modesto, Modesto to Merced and from San Francisco and Oakland to Merced.

To effect the consolidation referred to herein, applicants plan to execute a lease and conditional contract of sale. A copy of this agreement, dated February 16, 1925, has been filed with the Commission and appears to cover all the operative rights and operative properties of Valley Transit Company. Under its terms, California Transit Company, the lessee and purchaser, agrees, among other things,

1. To maintain and keep the leased equipment in the same state of repair as it now is, reasonable damage from ordinary wear and tear excepted, but including wear to tires and mechanical wear that in the ordinary course of business may be reasonably subject to immediate repair or adjustment;
2. To pay all operating expenses incurred by it during the terms of the lease, including driver's wages, gasoline, oil, tires, repair, rental of depots, commissions on ticket sales, licenses, insurance premiums, storage, baggage losses and liabilities, and claims for all damages or losses when adjudged recoverable.
3. To pay all state and county taxes.
4. To pay all costs, attorney's fees and expenses in connection with the agreement; and
5. To buy the operative rights and equipment leased for \$430,000 payable in forty-three monthly installments of \$10,000 each with interest, computed and payable monthly, at the rate of six per cent per annum on all deferred payments,

The rental to be paid will be the payments of principal and interest and such payments shall be the full compensation to be received by Valley Transit Company, both as rental and purchase price. Upon receiving the principal amount with interest, Valley Transit Company agrees to execute instruments of transfer to California Transit Company covering the properties leased.

It appears from the testimony herein that the proposed rental is based more on the revenues of Valley Transit Company, rather than on the value of the properties. As shown in the preceding paragraph, the annual rental will amount to \$120,000, plus interest. It becomes necessary, then, for us to examine the operating revenues and expenses of Valley Transit Company, as shown in that company's reports to the Commission, in order to form some conclusion as to whether the operation of the properties of that company will yield the rental required to be paid for such properties under the terms of the agreement.

For the years ending December 31st, Valley Transit Company has reported its operating revenues and expenses as follows:

<i>Item</i>	<i>1924</i>	<i>1923</i>	<i>1922</i>
Operating revenues:			
Passenger revenues -----	\$389,470 22	\$436,179 64	\$402,390 30
Express revenues -----	15,801 48	11,743 72	6,959 65
Station and other privileges -----	3,763 16	-----	-----
Storage -----	51 15	109 85	200 45
Rents -----	2,954 95	3,590 07	3,769 43
Other -----	-----	698 95	4,360 57
Total operating revenues -----	\$412,040 96	\$452,322 23	\$417,680 40
Operating expenses:			
Conducting transportation -----	\$142,283 54	\$135,087 72	\$134,541 56
Maintenance -----	87,283 23	95,639 89	118,933 46
Traffic -----	5,005 18	11,351 54	7,242 29
General and miscellaneous -----	86,639 57	63,783 27	53,588 28
Total operating expenses -----	\$321,211 52	\$305,862 42	\$314,305 59
Net operating revenues -----	\$90,829 44	\$146,459 81	\$103,374 81

The foregoing tabulation would seem to indicate that during the last three years the properties of Valley Transit Company have earned the amount now to be paid as rent for such properties in only one year, 1923. However, the testimony herein shows, and common knowledge bears out the testimony, that during 1924, travel was curtailed, due to the hoof and mouth disease, drouth conditions, lower farm production and unemployment. In this connection, John C. Walling, vice president and general manager of Valley Transit Company, testified that in his opinion, operating results during 1924 were considerably lowered, due to these conditions, but that in 1925 the net revenues should exceed those of not only 1924, but also 1923. It is of record that earnings during 1925, up to the time of the hearing, were in excess of those for the similar period during 1923.

W. E. Travis, president and general manager of California Transit Company, and president of Valley Transit Company, testified that in his opinion the earnings from the properties to be leased would be sufficient to take care of all the obligations under the agreement between the two carriers, and that it would not be necessary for California Transit Company to draw on the earnings from its present lines to meet such obligations. He apparently bases this conclusion on the past operations of Valley Transit Company, the estimated increase in revenues as a result of consolidation and use of improved type of stages, and the estimated savings in operating expenses. It appears that \$25,000 will be saved annually in officers' salaries and it is estimated that an additional \$10,000 will be saved in the auditing, ticket-selling and mechanical departments as a result of the consolidation, making a total estimated annual saving of \$35,000 in the operating expenses of the Valley Transit Company lines. Had a saving of \$35,000 annually been effected in the expenses of the company during the three years under review, the net revenues would have approximated \$125,000 in 1924, \$181,000 in 1923, and \$138,000 in 1922.

The properties to be thus acquired by lease and purchase by California Transit Company include, in addition to the operative rights, twenty-two White stages of 14- and 18-passenger capacity, three Cadillacs of 18-, 22- and 26-passenger capacity, eight Fageols of 18- and 26-passenger capacity, two Garfords of 18-passenger capacity, together with furniture and fixtures, materials and supplies, insurance policies and leases of terminals. The record shows that it is the intention of California Transit Company, upon obtaining possession of the properties of Valley Transit Company, to gradually standardize the equipment, so far as practicable, and to use the latest improved type of stage.

E. T. Lucey, representing The Atchison, Topeka and Santa Fe Railway Company, entered an appearance in these matters, protesting the granting thereof, but presenting no evidence.

Upon the record herein we are of the opinion that the applications should be granted subject to the provisions and conditions of this opinion and order. The approval herein granted is not to be considered as a finding of value of the operative rights and properties of Valley Transit Company or as binding on the Commission at some future date to recognize the rental and purchase price as the basis for an order fixing rates or permitting the issue of stock by California Transit Company.

It is our opinion that the agreement we are herein called upon to approve is an evidence of indebtedness coming within the provisions of section 6 of the Auto Stage and Truck Transportation Act.

ORDER.

Applications having been filed with the Railroad Commission, as indicated in the opinion which precedes this order, public hearings having been held, the matters having been duly submitted and the Commission now being fully advised and basing its order on the statements set forth in the opinion;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the consolidation and unification of the operative rights of Valley Transit Company, a corporation, and the operation, as one unified system, of through service for the transportation of passengers and express between all the termini and intermediate points, excepting local passenger service between Selma and Parlier, served by and along its present several routes, which routes are as follows:

1. Between Fresno and Bakersfield via Malaga, Fowler, Selma, Kingsburg, Traver, Goshen, Visalia, Farmersville, Exeter, Lindsay, Strathmore, Porterville, Terra Bella, Ducor, Richgrove, Delano, McFarland, Famosa, Kimberlena, Lerdo and Seco, operated pursuant to authority granted by Decision No. 8869, dated April 16, 1921, in Application No. 6433.

2. Between Fresno and Madera; Madera and Merced; Fresno and Bakersfield via Tulare; and Fresno and Kingsburg, operated pursuant to authority granted by Decision No. 9507, dated September 14, 1921, in Applications No. 7067 and No. 7068, as modified by Decision No. 13692, dated June 12, 1924, in Application No. 9849;

3. Between Fresno and Kingsburg, operated pursuant to authority granted by Decision No. 10227, dated March 27, 1922, in Application No. 7609;

4. Between Fresno and Selma, operated pursuant to authority granted by Decision No. 10508, dated May 26, 1922, in Application No. 7853;

5. Between Fresno and Dinuba, via Fowler, Selma, Parlier, and Reedley, operated pursuant to authority granted by Decision No. 12437, dated August 2, 1923, in Application No. 9251; and

6. Between Visalia and Dinuba via Yetttem, Cutler, Orosi, and Sultana; Tulare and Porterville via Lindsay and Strathmore; Tulare and Visalia via Mooney Grove, operated pursuant to authority granted by Decision No. 13692, dated June 12, 1924, in Application No. 9849.

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to Valley Transit Company, a corporation, to enable it to render through service under the afore-said consolidated operative rights.

It is hereby further ordered, that Valley Transit Company and California Transit Company be and they hereby are authorized to execute

the lease and conditional contract of sale referred to in the foregoing opinion, and Valley Transit Company be and it hereby is authorized to lease and sell its operative rights and properties to California Transit Company in accordance with the terms of such lease and conditional contract of sale.

The Railroad Commission further declares that public convenience and necessity require the consolidation and unification of the operative rights herein granted to Valley Transit Company and hereby authorized to be leased and sold to California Transit Company and the operative rights heretofore granted California Transit Company authorizing the operation of automobile stages between Sacramento and Stockton, Stockton and Modesto, Modesto and Merced, and San Francisco, Oakland and Merced, which were granted by Decisions No. 8150 and No. 8231, in Application No. 5163 and by Decision No. 11566, in Application No. 7982, such operations to include transportation of passengers and express between all of the termini and intermediate points served by and along such routes, except that no passengers or express may be transported between San Francisco and Oakland unless such passengers and express originate at, or are destined to, Livermore or points south thereof.

It is hereby further ordered, that a certificate of public convenience and necessity be and it is hereby granted to California Transit Company, a corporation, to consolidate the operative rights to which reference is made in the paragraph immediately preceding.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute a lease and conditional contract of sale is for the purpose of this proceeding only, and is granted only in so far as this Commission has jurisdiction, and is not intended as an approval of said lease and conditional contract of sale as to such other legal requirements to which said lease and conditional contract of sale may be subject.

2. The rental and purchase price to be paid by California Transit Company in accordance with the terms of the lease and conditional contract of sale is not to be urged before this Commission or any other tribunal of competent jurisdiction as a measure of value of the rights and properties of Valley Transit Company for any purpose other than the transfer herein authorized.

3. The authority herein granted to lease and sell properties from Valley Transit Company to California Transit Company will not become effective until California Transit Company shall have paid the fee prescribed in section 6 of the Auto Stage and Truck Transportation Act, and section 57 of the Public Utilities Act, which fee is \$430.

4. Applicants shall file their written acceptance of the certificates herein granted within a period of not to exceed ten (10) days from date

hereof; and shall file, in duplicate, tariff of rates, fares, rules and regulations, and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariffs of rates and fares, rules and regulations and time schedules to be identical with those attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed sixty (60) days from the date hereof, unless the time for commencement of operation hereunder is hereafter extended by a supplemental order of this Commission.

5. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated, nor service discontinued unless the written consent of the Railroad Commission to such assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.

6. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to and approved by this Commission.

For all other purposes, other than hereinabove specified, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this second day of May, 1925.

DECISION No. 14882.

IN THE MATTER OF THE SUSPENSION BY THE RAILROAD COMMISSION, ON ITS OWN MOTION, OF A CERTAIN RULE OF THE SUTTER-BUTTE CANAL COMPANY.

Case No. 2121.

IN THE MATTER OF THE INVESTIGATION UPON THE COMMISSION'S OWN MOTION, INTO THE RATES, CHARGES, CLASSIFICATIONS, CONTRACTS, PRACTICES, RULES, REGULATIONS, SCHEDULES AND CONDITIONS OF SERVICE OF THE SUTTER-BUTTE CANAL COMPANY, A PUBLIC UTILITY.

Case No. 2122.

Decided May 5, 1925.

RATES—WATER UTILITY—SERVICE CHARGE.—Sutter-Butte Canal Company authorized to place in effect "Rule No. 27," allowing a reduction of one-third in the annual service charges when paid in advance for three-year period.

Devlin and Brookman, Isaac Frohman, and W. H. Carlin, for Sutter-Butte Canal Company.

J. J. Deuel, for California Farm Bureau Federation.

Geo. F. Jones, for Butte County Water Users Association.

A. B. Eddy, for Protective Water Users Association.

Harry L. Huston, for himself and others.

DECOTO, SEAVEY AND SQUIRES, *Commissioners*.

OPINION.

The Sutter-Butte Canal Company, a corporation, engaged in the public utility business of furnishing water for irrigation purposes in

Sutter and Butte counties, on March 16, 1925, filed with the Railroad Commission a certain proposed amendment to its rules and regulations entitled "Rule No. 27, designated to be effective March 16, 1925," and reading as follows:

RULE No. 27.

The Sutter-Butte Canal Company gives to its consumers the opportunity of pre-paying, prior to the irrigation season of 1925, the service charge for the ensuing three-year period, as provided by its rules, and will, in consideration of such pre-payment, allow a discount of \$1.25 per acre, making the total payment \$2.50 per acre in full for the amount of the three-year service charge, this rule to be effective March 16, 1925, and to apply for the irrigation season of 1925.

It appearing that this proposed amendment was far reaching in its scope and involved the rights, interests and rates of a great number of the consumers throughout the system, the Commission was of the opinion that a public hearing should be held thereon in order to obtain full and complete information as to the effect of such a rule and the attitude of the consumers regarding it. Accordingly the Commission in the above entitled proceeding issued its order suspending the operation of said proposed amendment to the rules pending formal and public hearing, which it directed to be held thereon.

For the purpose of insuring and safeguarding the regularity of procedure in the final determination of this question it was considered advisable that the Commission further institute an investigation upon its own motion into the rates, charges, classifications, contracts, practices, rules, regulations, schedules and conditions of service of the Sutter-Butte Canal Company. This was done by order of the Commission instituting Case No. 2122, which was consolidated with Case No. 2121 and heard jointly therewith at Gridley, April 27, 1925, after due notice thereof had been given.

During said hearing the fact was developed that the proposed amendment would result in a reduction in the cost of service to all who cared to avail themselves of its privileges, and that its operation would be uniform throughout the entire system as to all classes of service, and would not result in unfair discrimination. It was furthermore apparent, that among the large number of representative consumers present at the hearing there was no opposition or objection to the establishment of the proposed amendment provided that reasonable time be given to enable the consumers to take advantage of such a rule if they so desire.

It is evident, therefore, that with suitable modification whereby a reasonable time will be assured in which those consumers so desiring may make arrangements to avail themselves of the privileges offered, authority should be granted for the establishment of this rule. This may properly be provided for by order in Case No. 2121; and the investigation on the Commission's own motion, Case No. 2122, being therefore unnecessary, may properly be dismissed.

ORDER.

Sutter-Butte Canal Company, a corporation, having on the sixteenth day of March, 1925, filed with this Commission a certain proposed amendment to its rules and regulations entitled "Rule No. 27, designated to be effective March 16, 1925," and more particularly set out in the opinion preceding this order, the Railroad Commission having on the fourteenth day of April, 1925, upon its own motion issued its order suspending and postponing the operation of said Rule No. 27 until further order of this Commission and directing that public hearing be held thereon, said public hearing having been duly held, the matter submitted, and the Commission being now fully informed thereon;

It is hereby ordered, that Sutter-Butte Canal Company, a corporation, be and it is hereby authorized to file with this Commission within ten (10) days from the date of this order an amendment to its rules and regulations substantially in accord with Rule No. 27, more particularly set out in the opinion above, provided, however, that the date fixing the limit of time during which consumers may make application for water service thereunder, shall be extended to and including a date not earlier than the fifteenth day of June, 1925.

It is hereby further ordered, that the investigation upon the Commission's own motion (Case No. 2122) be and the same is hereby dismissed.

For all other purposes the effective date of this order shall be May 10, 1925.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of May, 1925.

DECISION No. 14883.

IN THE MATTER OF THE APPLICATION OF OAKDALE GAS COMPANY,
A CORPORATION, FOR AN ORDER AUTHORIZING AN INCREASE
IN RATES FOR GAS SERVICE.

Application No. 10800.

Decided May 7, 1925.

RATES—GAS UTILITY—REASONABLE RETURN.—It is found the utility is netting 5.37 per cent under present rates, and that a reasonable return of 8 per cent is warranted. Rates adjusted on a basis of 3 cents differential per 1000 cubic feet of gas, for each increase or decrease of 10 cents per barrel in the cost of oil below or above \$1.90 a barrel f. o. b. Oakdale.

Guy W. Anderson, for Applicant.

F. W. Recder, for City of Oakdale.

David Bush, for City of Riverbank.

DECOTO, Commissioner.

OPINION.

Oakdale Gas Company, operating an artificial gas plant in Oakdale, and distributing gas in Oakdale and Riverbank, applies for authority to increase its rates for gas, alleging that on account of the continued increases in the price of oil its operation under present rates can not be conducted so as to yield a reasonable return upon the capital invested. Applicant alleges that the rates granted by this Commission in its Decision No. 6631, decided August 30, 1919 (Vol. 17, C. R. C., p. 240) are not now sufficient to allow applicant a reasonable earning on its investment.

A hearing on the application was held in Oakdale on March 19, 1925, at which time evidence was taken and the matter submitted.

A valuation of the gas properties of the applicant as of December 31, 1924, was submitted as follows:

Intangible capital	\$251 00
Landed capital	1,250 00
Production capital	17,760 00
Transmission capital	11,235 00
Distribution capital	31,385 00
General capital	1,450 00
Total capital	\$63,331 00

Taking into consideration additions and betterments for the year 1925 of \$735 as shown by the evidence, the average fixed capital for the year 1925 will be \$63,698.50. To this sum, for the purpose of obtaining a total rate base, must be added \$850 for average materials and supplies and a working cash capital of \$1,719.22.

Summary.

Average capital for 1925	\$63,698 50
Average materials and supplies	850 00
Working cash capital	1,719 22
Total rate base	\$66,267 72

The result of a year's operation under the present rates as estimated and submitted is as follows:

Gas revenue	\$22,443 77
Operating expenses:	
Oil	\$5,765 69
Other expenditures, exclusive of taxes	10,350 00
Taxes	1,945 00
Depreciation	825 00
Total expense	18,885 69
Net return	\$3,558 08
Rate of return, present rates	5.37%

This is not a reasonable return under all the circumstances to the operating company. A reasonable return should be approximately 8

per cent, as allowed other gas companies, and the schedule hereinafter set forth is designed to give the applicant a return of approximately 8 per cent.

The cost of oil is a large item of expense and its cost is constantly changing. The evidence showed that at the plant of the applicant an increase or decrease of 10 cents in the price of oil made a corresponding increase or decrease of 3 cents per 1000 cubic feet in the cost of manufacturing gas. In order that the Oakdale Gas Company and the people of Oakdale and Riverbank may continue at all times to enjoy just and reasonable gas rates without the necessity of frequent proceedings before the Commission, the schedule hereinafter set forth is designed to vary with the price of oil, as in the order set forth.

ORDER.

Oakdale Gas Company having made application to the Railroad Commission for an increase of rates and a public hearing having been held and the matter submitted;

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in its Decision No. 6631 (Vol. 17, C. R. C., p. 240), for Oakdale and Riverbank, should be modified to conform to the schedules hereinafter set forth, and that the rates hereinafter set forth are just and reasonable.

Basing its order on the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that the Oakdale Gas Company file with the Commission within ten (10) days of the date of this order the following basic schedule of rates which are, after May 10, 1925, to be charged and collected for gas service rendered by it in the cities of Oakdale and Riverbank and vicinity when the price paid for oil is \$1.90 per barrel f. o. b. Oakdale, provided, however, that no increase shall be made after the price of oil f. o. b. Oakdale passes \$2.40 per barrel.

Per meter per month		<i>General Service.</i>	
		Gross	Net
First	400 cubic feet or less-----	\$1 35	\$1 25
Next	2,600 cubic feet, per 1000 cubic feet-----	2 15	2 05
Next	5,000 cubic feet, per 1000 cubic feet-----	-----	1 85
Next	7,000 cubic feet, per 1000 cubic feet-----	-----	1 50
Over	15,000 cubic feet, per 1000 cubic feet-----	-----	1 25

The above rates over 400 cubic feet are subject to decrease or increase upon the order of the Railroad Commission of the State of California on a basis of 3 cents per 1000 cubic feet for each 10-cent decrease or increase in the cost of oil below or above the price of \$1.90 per barrel, f. o. b. Oakdale. The charge shall be to the nearest one cent per 1000 cubic feet.

The net rate shall apply if the bill is paid on or before the tenth day of the month next succeeding that for which the bill is rendered. If the bill is not paid on or before the tenth, the gross rate shall apply.

It is hereby further ordered, that

1. In case of a reduction in the price paid for oil, Oakdale Gas Company shall file within ten (10) days thereafter an affidavit setting forth the new price paid for oil and shall thereafter upon supplemental order of the Commission in this proceeding charge the reduced rates as determined under the schedule herein set forth.

2. In case there is an increase in the price paid for oil, Oakdale Gas Company may, after filing an affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedule herein set forth.

For all other purposes the effective date of this order shall be May 15, 1925.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of May, 1925.

DECISION No. 14886.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT COMPANY, A CORPORATION, PURCHASER, AND JOSEPH MILLER, AS SELLER, FOR PERMIT TO SELL AND PURCHASE CERTAIN OPERATIVE RIGHTS, BETWEEN FRESNO AND LOS BANOS, MERCED AND LOS BANOS, TRACY AND LOS BANOS.

Application No. 10679.

IN THE MATTER OF THE APPLICATION OF JOSEPH MILLER AND CALIFORNIA TRANSIT COMPANY, A CORPORATION, FOR CHANGE OF ROUTE BETWEEN FRESNO AND LOS BANOS.

Application No. 10680.

Decided May 7, 1925.

TRANSPORTATION—AUTO STAGES.—California Transit Company authorized to purchase operative rights of Joseph Miller between Fresno and Los Banos, Merced and Los Banos and Tracy and Los Banos. Rerouting of Fresno-Los Banos route by way of Madera, Califa and Chowchilla, authorized.

Earl A. Bagby, for Applicants.

Warren E. Libby, for Pickwick Stages, Northern Division, Protestant.

Robert G. Cornell, for city officials and citizens of the town of Chowchilla, Protestants.

BY THE COMMISSION.

OPINION.

In Application No. 10679, as amended, Joseph Miller asks permission to sell and transfer to California Transit Company, a corporation, the operative rights and equipment used by him in the business of trans-

porting passengers and express between Fresno and Los Banos, Merced and Los Banos and Tracy and Los Banos, as the same are now consolidated and affected by Decision No. 14407, dated December 27, 1924, in Application No. 9889, pursuant to the terms of an agreement between the two companies, a copy of which agreement was filed in this proceeding as Exhibit "A." California Transit Company asks permission to consolidate such rights, upon acquiring them, with the operative rights now owned, and also with those it proposes to lease and purchase from Valley Transit Company if permitted to do so.

In Application No. 10680, as amended, Joseph Miller asks permission to change the route now operated between Fresno and Los Banos so as to permit transportation between those two points by way of Madera, Califa and Chowchilla.

Public hearings were held before Examiner Satterwhite in Fresno on the eighteenth and nineteenth of February, 1925. The two matters were consolidated, were duly submitted and are now ready for decision.

In Application No. 10679 it is recited that "California Transit Company is at the present time engaged in the operation of automobile stage lines for the transportation of passengers and express between Oakland and Vallejo, Oakland and Napa, Vallejo and Sacramento, San Francisco and Oakland and Merced, Oakland and Stockton and San Jose and Stockton, serving intermediate points;" that "Valley Transit Company is the owner and operator of the following operative rights for the transportation of passengers and express; Fresno-Madera, Fresno-Merced, Fresno-Bakersfield via Tulare, Fresno-Bakersfield via Visalia, Visalia-Bakersfield via Exeter-Lindsay-Porterville, Fresno-Porterville with intermediate stations of Malaga, Fowler, Selma, Kingsburg, Traver, Goshen, Visalia, Farmerville, Exeter, Lindsay and Strathmore, Fresno-Kingsburg (2), Fresno-Dinuba, Dinuba-Visalia, Visalia-Tulare, Tulare-Lindsay-Porterville;" and that "Joseph Miller is the owner and operator of the following operative rights: Visalia-Hanford-Lemoore, Application No. 4074, Decision No. 6085, January 28, 1919; Hanford-Fresno, Application No. 9848, Decision No. 13692, June 12, 1924, transferring to Joseph Miller rights theretofore acquired by Walling and Alexander, Application No. 7067, Decision No. 9507, September 14, 1921; Fresno-Los Banos-Tracy and Merced-Los Banos, Application No. 9820, Decision No. 13282, March 19, 1924."

By its decision in Applications No. 10279 and No. 10687 the Commission authorized the consolidation and unification of the operative rights of Valley Transit Company and the lease and purchase of such rights by California Transit Company, and the consolidation of such rights by California Transit Company with those rights owned by California Transit Company and which permit operations between Sacramento and Stockton, Stockton and Modesto, Modesto and Merced,

Oakland and Merced and San Francisco and Merced, which rights had heretofore been acquired under authority granted by the Commission in Decisions No. 8150 and No. 8231 in Application No. 5163 and in Decision No. 11566 in Application No. 7982. For a more complete description of the routes of Valley Transit Company reference is here made to Applications No. 10279 and No. 10687 and to the Commission's decision thereon.

The operative rights which Joseph Miller now proposes to transfer to California Transit Company were acquired by him by transfer from D. Moyer pursuant to authority granted by Decision No. 13282, dated March 9, 1924, in Application No. 9820 as later amended by Decision No. 14407, dated December 27, 1924, in Application No. 9889. These rights originally permitted operations between Los Banos and Dos Palos, Dos Palos and Firebaugh, Firebaugh and Fresno, Los Banos and Tracy and Los Banos and Merced. Subsequently by Decision No. 14407, rendered on an application, No. 9889, of Joseph Miller to consolidate his operative rights, the Commission granted to Joseph Miller a certificate of public convenience and necessity to operate an automobile stage service as a common carrier of passengers and express between Fresno, Mendota, Firebaugh, Oxalis, Dos Palos, Los Banos, Volta, Gustine, Newman, Crows Landing, Patterson, Westley, Vernalis, Tracy and Merced via Los Banos and intermediate points, express matter being limited to shipments not exceeding 75 pounds each in weight, and such rights to be in lieu of those theretofore acquired by Joseph Miller pursuant to Decision No. 13282.

California Transit Company, at present, is authorized to transport passengers and express down the east side of the San Joaquin Valley over the lines of Valley Transit Company. Those desiring to travel from points on the lines of California Transit Company to points on the west side are compelled to change cars at Tracy, or at some other point, to the Joseph Miller lines. It is alleged that there is a substantial volume of traffic between points on the lines of one applicant and points on the lines of the other and that the consolidation of the operative rights would benefit the public in that schedules could be more properly arranged to meet the demand for transportation, through service could be given, and better and more adequate service could be accomplished. It is of record that California Transit Company has a body building works at its disposal and that it is the intention of the corporation, if these applications be granted, to use the most modern equipment demanded by the necessities of travel and to retire the present equipment as soon as it can economically be done. The equipment now used by Joseph Miller over the lines involved in these matters consists of five 14-passenger Cadillac stages and one 18-passenger Garford stage. The California Transit Company, it appears,

is now endeavoring to standardize its equipment and to use six-wheel specially constructed stages of 26-passenger capacity, equipped with seats tested for the greatest comfort of passengers.

In Exhibit "C" there has been filed a copy of a proposed time schedule over the west side route. This schedule provides for stages leaving Fresno at 9 a.m., proceeding through Los Banos and Tracy, and arriving at Stockton at 3.35 p.m., and at Sacramento at 6.30 p.m. At Tracy connections are made with stages going to Oakland and San Francisco, the former station being reached at 4.25 p.m. and the latter at 5.10 p.m. Another schedule is provided, leaving Fresno at 4.30 p.m. going through Madera, Califa and Los Banos into Tracy, which is reached at 9.40 p.m., and thence through into Oakland, arriving at 12.10 a.m. and into San Francisco at 1 a.m. At Tracy connections are made for Stockton, arriving at 11 p.m. Returning, stages leave Sacramento at 7.10 a.m., pass through Stockton at 9.20 a.m., and thence proceed through Tracy down to Fresno, arriving at 3.30 p.m. Stages leaving San Francisco at 7 a.m. connect at Tracy. A schedule is also provided for stages leaving San Francisco at 11 a.m., and going through to Fresno, arriving at 7.40 p.m. The schedule also provides for local service between Los Banos and Fresno and between Los Banos and Merced.

The record indicates that there is substantial movement of labor between points on the west side and the labor centers of Stockton and Sacramento. The proposed schedule, Exhibit "C," is designed to meet this demand for transportation and to furnish through service between these points. In this connection, F. F. Palmerlee, a representative of the Miller and Lux interests and a witness called by applicants, testified that during 1923 approximately 2000 laboring men were brought in, chiefly from Stockton and Sacramento, to work on the Miller and Lux ranches around Los Banos, Dos Palos and Firebaugh and he estimated that a large number would be needed this year. The witness further testified that in the past, private cars had often been used to transport the men because of the lack of through stage transportation. In his opinion the service proposed by applicants in these proceedings would be of great benefit.

A number of witnesses representing public organizations in localities along the Joseph Miller lines testified as to the need of their communities for the service proposed by applicants and as to the demand for through transportation from the lines of one applicant to those of the other. There were also called as witnesses ticket agents located at San Francisco, Oakland, Stockton, Sacramento, Tracy and Monterey who testified as to the general demand for through service on the part of the traveling public. Testimony along this line was also given by J. H. Hodge, superintendent of the Valley Transit Company. From

his statements, it appears that as a general rule, patrons ask for through service, the necessity for changing cars causing inconvenience and dissatisfaction. The testimony further shows that with through service and long hauls the stage company is in a position to furnish better and more luxurious equipment. It also appears more advantageous to the company to operate through service in that the number of drivers can be reduced and less time is lost at terminals in waiting for connecting stages.

It appears that Joseph Miller purchased the operative rights and properties to which reference is hereinabove made, from D. Moyer, pursuant to the decision of the Commission, for \$35,000 and that subsequent to the acquisition thereof, he expended about \$6,500 for betterments and improvements, making a total cost of \$41,500. In now purchasing these rights and equipment, California Transit Company has agreed to pay Joseph Miller the amount he expended. Of this amount, \$10,000 is to be paid upon approval of the Commission, \$1,500 monthly for four months and \$1,000 monthly thereafter until paid, deferred payments to bear interest at the rate of 6 per cent per annum.

Under the agreement between the two applicants, dated December 11, 1924, Joseph Miller also agreed to transfer to California Transit Company whatever rights he might have under an option to purchase certain operative rights from S. F. B. Morse. The operative rights of S. F. B. Morse were granted by Decision No. 13664, dated June 9, 1924, and authorized the transportation of passengers by automobile stages between Pacific Grove, Monterey, Del Monte, Los Banos and Merced. The Commission was advised, thereafter, that S. F. B. Morse and Joseph Miller entered into an agreement for the transfer of this right and that Joseph Miller took over and was conducting operations thereunder. This information was brought to the attention of the Commission during the hearings held on Applications No. 9889, No. 10311 and No. 10488, matters involving among other things, the unification of the Joseph Miller lines. The decision in those matters, No. 14407, dated December 27, 1924, reads in part as follows:

It appears from the testimony of applicant Miller that during the summer of 1924 he took over without authority an operative right under a certificate heretofore granted to one S. F. B. Morse authorizing the operation of auto stage service between Merced, Del Monte, Pacific Grove, and Monterey. No authority from the Railroad Commission was ever asked for, nor obtained authorizing Miller to operate this service, although he testified that he had a private agreement with Mr. Morse under which he operated his own cars on the route, taking all receipts and paying all expenses, the agreement providing for the privilege to transfer at some future time the operative right from Morse to Miller. Furthermore, Miller, in the operation of the Morse service, transported passengers locally between Merced and Los Banos on Merced-Monterey Stages, thereby in effect abandoning his own operative right locally between Merced and Los Banos; therefore, the granting of a blanket certificate covering the operative rights of Miller north of Fresno will be with the reservation that the Commission reserves the right to call into question the matter of revoking or annulling the operative right of Miller between Merced and Los Banos if it is shown at the required public hearing that such right was abandoned by applicant

Miller or operated in any unlawful manner in connection with the operation of the Merced-Monterey service.

Accordingly, the Commission on January 16, 1925, issued an order directing S. F. B. Morse to appear and show cause why the certificate granted him by Decision No. 13664 should not be revoked. This matter was still pending before the Commission at the time of the hearings in the two applications now under consideration, and some question was raised concerning the Morse certificate and also the operative right of Miller between Los Banos and Merced.

On March 3, 1925, by Decision No. 14619, the Commission dismissed the proceeding initiated by its order to show cause, it having been shown that there was no intent to wilfully violate the Commission's rules. Further, counsel for applicants stated that the option granted by S. F. B. Morse to Joseph Miller had expired and is no longer enforceable. In addition, W. C. Travis, president of California Transit Company, testified that he had a tentative agreement with Mr. Morse, subject to the approval of the Commission, to take over his rights. Accordingly, on April 13, 1925, an application, No. 11004, was filed in which the Commission is asked to authorize S. F. B. Morse to lease his operative rights to California Transit Company. It therefore appears unnecessary to give consideration at this time to the option heretofore held by Joseph Miller to purchase the operative right of S. F. B. Morse.

In asking permission to acquire the Joseph Miller lines, California Transit Company also asks permission to consolidate such lines with the rights it now owns and which it has been authorized to acquire from Valley Transit Company, "so that the said operative rights of Joseph Miller and Valley Transit Company and California Transit Company shall become unified and a part of the *complete* system of said corporation applicant."

However, it appears to us that the testimony herein was intended to indicate the convenience and necessity of establishing through service between points on the Joseph Miller lines covered by these applications and on the Valley Transit Company lines and the cities of San Francisco, Oakland, Sacramento and Stockton, and intermediate points, served by California Transit Company. Furthermore, California Transit Company on April 13, 1925, subsequent to the hearings in these matters, filed with the Commission an application, No. 11005, for a certificate of public convenience and necessity to consolidate its operative rights and to establish certain through service over separate routes. In view of this request and in further view of the testimony herein, we do not believe that we are justified in these proceedings in authorizing the consolidation of the Joseph Miller lines with all the lines of California Transit Company. In our opinion the decision in Application No. 10679 should be limited to the sale and transfer of the opera-

tive rights of Joseph Miller and to the consolidation of such rights with those of Valley Transit Company and those of California Transit Company connecting with the Joseph Miller lines and extending to San Francisco and Oakland and Stockton and Sacramento.

The approval herein granted is not to be considered as a finding of value of the operative rights and properties of Joseph Miller nor as binding on the Commission at some future date to recognize the purchase price to be paid by California Transit Company as the basis for an order fixing rates or permitting the issue of stock or for any purpose other than the transfer herein authorized. In passing on this application, we have considered the purchase price of \$41,500 only as the consideration agreed upon by the two applicants for the purpose of this proceeding. As the agreement provides for the payment of a portion of the \$41,500 at periods later than one year after the date thereof, we believe that it is an evidence of indebtedness coming within the provisions of section 6 of the Auto Stage and Truck Transportation Act, and as such, subject to the payment of the fee prescribed.

We will now give consideration to Application No. 10680. In this matter, the Commission is asked to approve a proposed change in the line operated by Joseph Miller between Fresno and Los Banos. It appears that at present, Joseph Miller's operative rights permit the operation between these two points only by way of Mendota, Firebaugh and Dos Palos. The present request is for permission to operate by way of Madera and Califa. In asking permission to change the route operated, applicants do not propose to abandon the line by way of Mendota, Firebaugh and Dos Palos, so that the application in effect is for a new certificate of public convenience and necessity.

At the hearings held in these applications, Robert G. Cornell, representing the town of Chowchilla entered an appearance requesting that the proposed new route be changed so as to run by way of Madera, Califa and Chowchilla into Los Banos.

Testimony in support of this request shows that there is a population of about 1500 people centering around Chowchilla who would receive the benefits of this additional service, if granted. It is of record that there is a substantial demand by residents in and about Chowchilla for direct transportation to Los Banos and to other points on the west side and also by way of Los Banos to the coast. Upon hearing this request for service, applicants advised the Commission that there was no objection on their part to route stages through Chowchilla instead of Califa.

In support of the request contained in Application No. 10680, it is alleged that the route by way of Madera, Califa and Chowchilla is several miles shorter than by way of Mendota and that the road conditions are better, which will result in an estimated saving of about

thirty minutes in the running time between Fresno and Los Banos, Tracy, Oakland and other points north of Los Banos. It is not, however, planned to abandon the present route by way of Mendota, Firebaugh and Dos Palos. As these points are said to furnish very little traffic, they will be served with one schedule daily, each way.

In addition to the advantage of shorter running time the testimony herein shows that there is considerable demand from points on the proposed new route for transportation to the west side, which will be met by the service now planned by applicant. The proposed new routing of cars will eliminate about thirty-five miles of dirt road which will result not only in improved service to patrons, but also in lower transportation cost to the applicants.

Warren E. Libby, representing Pickwick Stages, Northern Division, entered an appearance in these matters protesting the granting thereof. Pickwick Stages, Northern Division, is operating an automobile stage line for the transportation of passengers between Gilroy and Los Banos over the Pacheco Pass. It has filed an application, No. 10693, in which it also asks permission to operate its stages between Los Banos and Fresno by way of Madera and Califa and Chowchilla, over the new route proposed by applicants between Los Banos and Fresno, and it therefore protests the granting to applicant corporation of a certificate to serve this route.

However, after reviewing the evidence in this matter, we believe that public convenience and necessity require the change in the route between Los Banos and Fresno as proposed herein and the operation of through stages without the necessity of changing at Los Banos, from Fresno by way of Madera, Califa and Chowchilla to Los Banos and points north thereof. The present operative rights of Joseph Miller permitting the transportation of passengers and express between Fresno and Los Banos by way of Mendota, limit express matter to shipments not exceeding 75 pounds each in weight. Similar restrictions will be placed on the certificate now asked providing for a change of route, between Fresno and Los Banos.

ORDER.

Applications having been filed with the Railroad Commission as indicated in the opinion which precedes this order, public hearings having been held, the matters having been duly submitted and the Commission now being fully advised and basing its order on the statements set forth in the preceding opinion:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Joseph Miller of automobile stages for the transportation of passengers and express, limited to shipments of not exceeding 75 pounds each, between

Fresno and Los Banos by way of Madera, Califa and Chowchilla and intermediate points, and the consolidation and unification of such operations with those now conducted by Joseph Miller pursuant to Decision No. 14407, dated December 27, 1924, in Application No. 9889, between Fresno, Mendota, Firebaugh, Oxalis, Dos Palos, Los Banos, Volta, Gustine, Newman, Crows Landing, Patterson, Westley, Vernalis, Tracy and Merced via Los Banos and intermediate points;

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to Joseph Miller permitting him to operate between Fresno and Los Banos by way of Madera, Califa, and Chowchilla and to consolidate such rights with the operative rights heretofore granted him by Decision No. 14407, as indicated in the paragraph immediately preceding.

It is hereby further ordered, that Joseph Miller be and he hereby is authorized to sell and transfer to California Transit Company, a corporation, the properties and operative rights, which were granted said Joseph Miller by Decision No. 14407, dated December 27, 1924, and by this decision, such sale and transfer to be in accordance with the terms and conditions of the agreement, dated December 11, 1924, and referred to in the foregoing opinion, which agreement Joseph Miller and California Transit Company, a corporation, are hereby authorized to execute. The authority hereby conveyed does not authorize the transportation of express matter between Fresno and Los Banos, via Mendota, in excess of shipments exceeding 75 pounds in weight each.

The Railroad Commission hereby further declares that public convenience and necessity require the consolidation and unification of the operative rights herein authorized to be transferred to California Transit Company and the operative rights of Valley Transit Company authorized to be leased and sold to California Transit Company by the decision in Applications No. 10279 and No. 10687 and the operative rights heretofore granted California Transit Company authorizing the operation of automobile stages between Sacramento and Stockton; Stockton and San Jose; Stockton and Tracy; Stockton and Oakland; and San Francisco, Oakland and Merced, which were granted by Decisions No. 8150 and No. 8231 in Application No. 5163 and Decision No. 11566 in Application No. 7982, such operations to include transportation of passengers and express between all of the termini and intermediate points served by and along such routes except that no passengers or express may be transported between San Francisco and Oakland unless such passengers and express originate at, or are destined to, Livermore or points south thereof.

It is hereby further ordered, that a certificate of public convenience and necessity be and it is hereby granted to California Transit Com-

pany, a corporation, to consolidate the operative rights to which reference is made in the paragraph immediately preceding.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute an agreement is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction and is not intended as an approval of said agreement as to such other legal requirements to which said agreement may be subject.

2. The purchase price to be paid by California Transit Company in accordance with the terms of the agreement is not to be urged before this Commission or any tribunal of competent jurisdiction as a measure of value of the rights and properties of Joseph Miller for any purpose other than the transfer herein authorized.

3. The authority herein granted to transfer properties from Joseph Miller to California Transit Company will not become effective until California Transit Company has paid the fee prescribed in section 6 of the Auto Stage and Truck Transportation Act and section 57 of the Public Utilities Act, which fee is \$42.

4. Applicants shall file their written acceptance of the certificate herein granted within a period of not exceeding ten (10) days from date hereof; and shall file, in duplicate, tariff of rates, fares, rules and regulations, and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariffs of rates and fares, rules and regulations, and time schedules, to be identical with those attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed sixty (60) days from the date hereof, unless the time for commencement of operation hereunder is hereafter extended by a supplemental order of this Commission.

5. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated nor service thereunder discontinued unless the written consent of the Railroad Commission to such assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.

6. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on basis satisfactory to and approved by this Commission.

For all other purposes, other than hereinabove specified, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this seventh day of May, 1925.

DECISION No. 14888.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND
POWER CORPORATION FOR AN ORDER AUTHORIZING THE
ISSUE AND SALE OF STOCK.

Application No. 11033.

Decided May 7, 1925.

SECURITIES—STOCK—ELECTRIC UTILITY.—San Joaquin Light and Power Corporation authorized to issue and sell at not less than \$92 per share net, on or before April 30, 1926, 10,000 shares of its prior preferred stock.

Murray Bourne, for Applicant.

BY THE COMMISSION.

OPINION.

San Joaquin Light and Power Corporation asks permission to issue and sell 10,000 shares of its 7 per cent prior preferred stock of the aggregate par value of \$1,000,000 for the purpose of reimbursing its treasury for additions, extensions, improvements or betterments to its properties heretofore made, or to provide the cost of additions, extensions, improvements or betterments to be made subsequent to February 28, 1925, the cost of which has not been reimbursed or provided for through the proceeds from the sale of stock or bonds.

Applicant reports its authorized and outstanding stock as of March 31, 1925, as follows:

Class	Authorized	Outstanding
Prior preferred—7 per cent-----	\$75,000,000 00	\$9,705,500 00
Series "A" preferred—7 per cent-----	18,500,000 00	6,426,700 00
Series "B" preferred—6 per cent-----	6,500,000 00	73,300 00
Common -----	50,000,000 00	11,000,000 00
Total -----	\$150,000,000 00	\$27,205,500 00

By Decision No. 14562, dated February 14, 1925, the Commission authorized the company to issue and sell \$1,000,000 of its 7 per cent prior preferred stock. In this application it reports that of the amount authorized it has sold up to March 31, 1925, \$756,900 of stock, leaving \$243,100 available for future sale. In making the present request to issue an additional \$1,000,000 of prior preferred stock, it reports the necessity for more funds to take care of its 1925 construction expenditures.

In Exhibit "B," as amended, it reports uncapitalized construction expenditures as of February 28, 1925, at \$121,351.75 and the balance to complete approved estimates as of the same date, at \$556,587.40, and estimated expenditures during the remaining ten months of the year at \$3,125,120, making a total of expenditures heretofore made and estimated up to the close of the year at \$3,803,059.15. From this amount it deducts \$1,871,957.68 received from the sale of bonds heretofore authorized by the Commission and now on hand, \$243,100 representing stock

to be issued pursuant to Decision No. 14562 and \$316,236.59 representing amounts to be collected from stock heretofore sold under installment contracts. Making these deductions, which aggregate \$2,431,294.17, there is left the sum of \$1,371,764.98 which, according to the testimony, represents total expenditures to the close of 1925 which have not been paid or provided for through the issue of stock or bonds and which are used to justify applicant's present request to issue \$1,000,000 of stock.

Applicant asks permission to issue and sell the stock herein applied for at not less than \$96 per share net. It is of record that the company at present is offering its stock for sale at \$101 per share for cash and at \$102 per share if purchased under installment payment contracts. The suggested price of \$96 per share is after making a maximum allowance of \$5 per share for commissions and other expenses incident to the sale of stock.

ORDER.

San Joaquin Light and Power Corporation having applied to the Railroad Commission for permission to issue and sell \$1,000,000 of its prior preferred stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue and sale of such stock is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to issue and sell at not less than \$96 per share net, on or before April 30, 1926, 10,000 shares of its prior preferred stock of the aggregate par value of \$1,000,000, and to use the proceeds to reimburse its treasury for, or to provide the cost of, making the additions, extensions, improvements or betterments to its properties, to which reference is made in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

1. Only such expenditures, not otherwise capitalized, as are chargeable to fixed capital accounts under the uniform systems of accounts prescribed or adopted by the Railroad Commission may be financed with the proceeds from the sale of the stock herein authorized to be issued.
2. San Joaquin Light and Power Corporation shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. For the purpose of reporting under the Commission's General Order No. 24, San Joaquin Light and Power Corporation may consolidate the proceeds to be received from the sale of the \$1,000,000 of stock herein authorized with the proceeds obtained from the sale of the stock, the issue of which has heretofore been authorized by the Railroad Commission.

4. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this seventh day of May, 1925.

DECISION No. 14901.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION TO INSTALL TELEPHONE PLANT AND TO PUBLISH, FILE AND PUT INTO EFFECT RATES FOR EXCHANGE, INTEREXCHANGE AND TELEGRAPH SERVICE AT HAWTHORNE, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 10993.

Decided May 12, 1925.

RATES—TELEPHONE UTILITY—EXCHANGE AREA.—Authority granted to establish telephone exchange in town of Hawthorne, and to place in effect rates for service from such exchange. Exchange area defined.

James T. Shaw, for Applicant.

J. M. Carter, President Board of Trustees, for City of Hawthorne.

H. W. Hopkins, for Hawthorne Chamber of Commerce.

J. H. Batzle, for Lennox Chamber of Commerce.

SHORE, Commissioner.

OPINION.

This is a proceeding in which The Pacific Telephone and Telegraph Company requests that the Railroad Commission make its order granting it authority to establish a telephone exchange in the town of Hawthorne, and to place in effect certain rates for service to be furnished from that exchange.

The territory asked to be included in the proposed Hawthorne exchange is a part of the suburban area of the Inglewood exchange. At the present time, there are three hundred forty-three (343) subscribers within this territory, of which all but seven (7) are receiving suburban or 10-party line service. The establishment of an exchange at Hawthorne will make available to these subscribers and to the public individual and party-line service at a lower rate than the same service can be furnished from the Inglewood exchange.

There was considerable testimony from the people of Hawthorne, requesting that the company's application be granted. There was some objection expressed relative to the inclusion in the proposed area of that section between Palm and Belleview avenues. From the testi-

mony in this proceeding, it appears that the area along both sides of Bellevue avenue, and that north, should continue to be served from the Inglewood exchange.

The exchange area of the Hawthorne exchange is described in Exhibit "A" attached hereto. From an investigation of the Commission's engineering department, it also appears that the primary rate area, as proposed by the company, should be modified, as shown in Exhibit "A" attached hereto.

Applicant and the Commission's engineering department have both submitted a proposed schedule of rates applying to general business and residence service for the Hawthorne exchange. In this proceeding, the question of the cost of operating the Hawthorne exchange and the total revenue to be received has no particular bearing on the rates to be fixed. Equitable rates for the Hawthorne exchange will be those rates now in effect on applicant's system for exchanges of like size.

The proposed rates submitted at the hearing, together with the rates herein authorized, applying to general business and residence service, are set forth in the following table:

Rates for General Business and Residence Service—Hawthorne Exchange.

Service	Rates proposed by E. F. Zacher for applicant	Rates proposed by F. V. Rhodes for C. R. C. Eng. Dept.	Rates herein authorized
Business—			
Individual line -----	\$3 50	\$2 75	\$3 00
Two-party line -----	3 00	2 25	2 25
Extension station -----	1 00	1 00	1 00
Residence—			
Individual line -----	2 50	2 25	2 50
Two-party line -----	2 00	2 00	2 00
Four-party line -----	1 75	1 75	1 75
Extension station—			
Without bell -----	50	50	50
With bell -----	65	65	65

ORDER.

The Pacific Telephone and Telegraph Company having made application to this Commission, requesting authority to establish an exchange in the town of Hawthorne and that rates for telephone and telegraph service be fixed for said area; a public hearing having been held, the matter having been submitted and now ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that The Pacific Telephone and Telegraph Company should establish an exchange in the town of Hawthorne, and place in effect certain rates for telephone service, as hereinafter set forth.

Basing its order on the foregoing findings of fact and on such other findings and statements of fact as are set forth in the opinion preceding this order;

EXHIBIT "A."

PRIMARY RATE AREA AND EXCHANGE AREA BOUNDARIES.

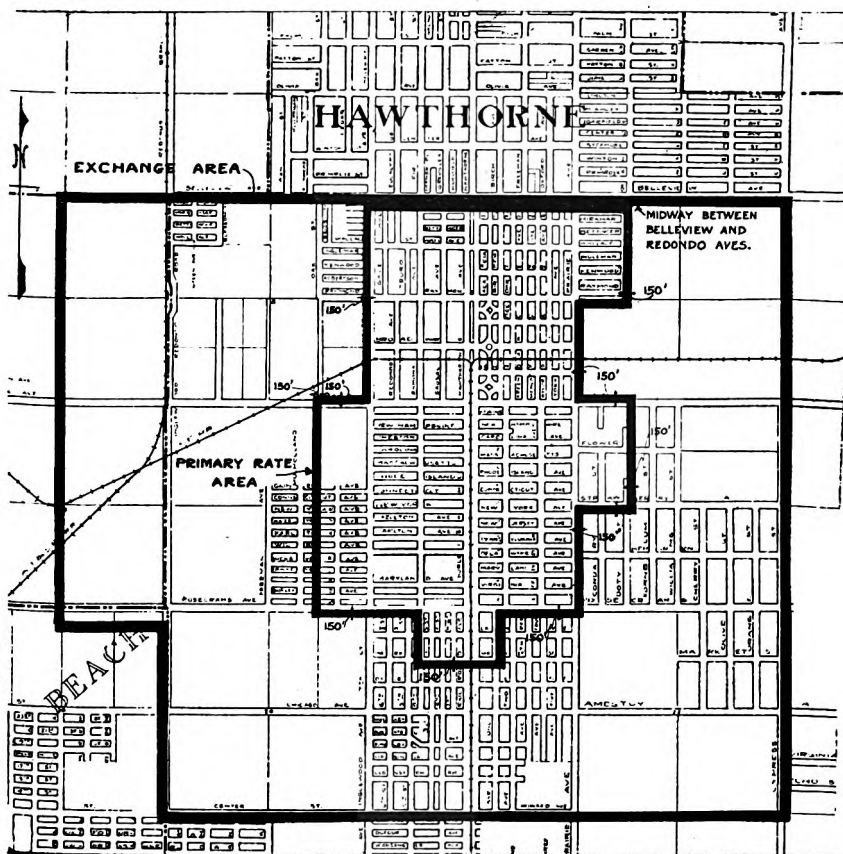
CALIFORNIA RAILROAD COMMISSION

EXCHANGE AND PRIMARY RATE AREA
BOUNDARIES

HAWTHORNE EXCHANGE

0 1/4 1/2 3/4 1 MILE

MAY 11, 1925.



36855—pages 434-435.

It is hereby ordered, that The Pacific Telephone and Telegraph Company

(1) Establish an exchange, hereafter called "Hawthorne exchange," to include such territory as set forth in Exhibit "A" attached hereto.

(2) Establish a primary rate area within the "Hawthorne exchange" as set forth in Exhibit "A" attached hereto.

(3) Commence construction work necessary to render "Hawthorne exchange" service to subscribers within the "Hawthorne exchange" on or before June 30, 1925.

(4) Furnish exchange service within the "Hawthorne exchange" on and after December 31, 1925.

(5) Furnish toll service from (to) "Hawthorne exchange" to (from) other toll points on and after December 31, 1925.

(6) Charge and collect rates for exchange service rendered on and after December 31, 1925, as set forth in Exhibit "B" attached hereto.

(7) Charge and collect rates for toll service rendered on and after December 31, 1925, as set forth in Exhibit "C" attached hereto.

(8) Discontinue furnishing Inglewood exchange service to subscribers within the "Hawthorne exchange" on and after January 1, 1926.

(9) File with the Railroad Commission maps of the "Hawthorne exchange" area and primary rate area to show the boundaries, as set forth in Exhibit "A" attached hereto, on or before December 31, 1925.

(10) File with the Railroad Commission rates for exchange and toll service, as set forth in Exhibits "B" and "C" attached hereto, on or before December 31, 1925.

(11) File with the Railroad Commission information, within five (5) days after construction work is commenced, showing that the order as contained in section (3) above is complied with.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twelfth day of May, 1925.

EXHIBIT "B."

EXCHANGE RATES.

EXCHANGE SERVICE SCHEDULES.

Service.

General Service. Hawthorne.

Applicable to business individual line and two-party line flat rate service, and residence individual line and party-line flat rate service furnished within the primary rate area of the Hawthorne exchange.

Rate.

(1) Business flat rate service—

	Rate per month	
	Wall set	Desk set
Each individual line station-----	\$3 00	\$3 25
Each two-party line station-----	2 25	2 50
Each extension station-----	1 00	1 25

(2) Residence flat rate service—

Each individual line station-----	\$2 50	\$2 75
Each two-party line station-----	2 00	2 25
Each four-party line station-----	1 75	2 00
Each extension station, without bell-----	50	75
Each extension station, with bell-----	65	1 00

Other Service, Hawthorne.

Other rates and charges as set forth in Sheets C. R. C. Nos. 9804-T, 9805-T, 9806-T, 9807-T, 9810-T, 9811-T, 9812-T, 9813-T, 9814-T, 9815-T, 9818-T, 9819-T, 9820-T, 9821-T, 9823-T, 9824-T, 9825-T, 9827-T, 9829-T, 13083-T, 9833-T, 9834-T, 13081-T, 9835-T of the rate schedules of The Pacific Telephone and Telegraph Company, as filed with the Railroad Commission.

EXHIBIT "C."

TOLL RATES.

RATES FOR TOLL TELEPHONE SERVICE.

Rates for toll telephone service between Hawthorne and any other toll point are the rates determined in accordance with the terms and conditions of Order No. 2495, dated December 13, 1918, and Order No. 2797, dated February 17, 1919, amendatory thereto, of the Postmaster General of the United States, with the exceptions noted below; provided, however, that as to any toll points on a connecting line over which rates established by the Postmaster General do not apply, the rate shall be the sum of the rate between Hawthorne and the connecting point on such line to which such rates established by the Postmaster General do apply, and the rate in effect between this connecting point and the toll point.

The exceptions referred to above are as follows:

- (1) Between Hawthorne and any one of the toll points, Culver City, El Segundo, Inglewood, and Los Angeles, station-to-station service only will be furnished.
- (2) Between Hawthorne and El Segundo and Hawthorne and Inglewood the initial station-to-station rate will be five cents (\$0.05).

Initial and overtime periods and overtime rates will be, in all cases, as set forth in the orders of the Postmaster General, referred to above.

DECISION No. 14903.

IN THE MATTER OF THE APPLICATION OF JAMES A. GUNN, JR., FOR AUTHORITY TO SELL HIS HYDRO-ELECTRIC AND WATER SYSTEMS TO THE LAKE COUNTY WATER AND POWER COMPANY, A CORPORATION, AND OF LAKE COUNTY WATER AND POWER COMPANY, A CORPORATION, FOR AUTHORITY TO BUY SAID SYSTEMS AND TO ISSUE AND SELL STOCK AND BONDS.

Application No. 10554.

Decided May 12, 1925.

TRANSFER—ELECTRIC UTILITY—SECURITY ISSUE.—James A. and Ida H. Gunn, authorized to sell to Lake County Water and Power Company certain public utility property, and the latter authorized to issue \$68,000 of stock in payment thereof.

Application of same corporation to issue \$100,000 of bonds, and \$132,000 of stock, denied without prejudice.

James A. Gunn, Jr., for Applicants.

BY THE COMMISSION.

OPINION.

The Railroad Commission is asked to authorize James A. Gunn, Jr., to sell his public utility properties to the Lake County Water and Power Company and to authorize the company to issue \$200,000 of

common stock and \$100,000 of 7 per cent 20-year bonds for the purposes hereinafter mentioned.

James A. Gunn, Jr., is engaged in the business of generating electric energy in a hydro-electric plant on Kelsey Creek nine miles south of Kelseyville and distributing the same, together with energy purchased, along the valley northward to Kelseyville, in Kelseyville, northward therefrom in Big Valley to Clear Lake, in the village of Finley, and at Soda Bay, over about 31 miles of lines, and is selling water for domestic uses and for irrigation at Kelseyville and adjacent territory. He has a generating plant of 200 kilowatt capacity. His flume, however, will carry only enough water to generate one-fifth of the plant capacity and at times the load on the plant is greater than this, necessitating the purchase of electric energy. He has no storage on Kelsey Creek, and during the past year he at times had to purchase from the California Telephone and Light Company all the electric energy distributed. For 1923 he reports operating revenues of \$2,950.94, and for 1924 operating revenues of \$4,175.73.

The Lake County Water and Power Company was recently organized and has an authorized stock issue of \$200,000, divided into 2000 shares of the par value of \$100 each. In exchange for 1001 shares (\$100,100) of stock, James A. Gunn, Jr., and Ida H. Gunn, his wife, have agreed to transfer to the corporation the following described properties:

All of that public utility property now owned by the said parties of the first part situate in the said county of Lake, State of California, and consisting of

(1) All water rights covering the natural flow, the flood waters, and the underground waters of Kelsey Creek and its tributaries, for irrigation, town water supply, and the generation of electric power;

(2) The power house situate on said Kelsey Creek, in section 14, township 12 north, range nine west, M. D. M., together with a 200 kilowatt electric generator, a $7\frac{1}{2}$ kilowatt exciter, five (5) Pelton water wheels, Lombard water wheel governor, a speed indicator, a switchboard and all apparatus thereon, five (5) eight-inch Pelton gate valves, approximately 800 feet of thirty-inch diameter riveted steel pipe, one (1) twenty-inch gate valve, one (1) twenty-inch check valve, all flumes and ditches, and rights of way therefor;

(3) The electric distributing system extending from said powerhouse and consisting of approximately thirty-one (31) miles of lines, fifty (50) transformers, aggregating $203\frac{1}{2}$ kilowatts, seventy (70) watt-hour meters, two (2) current transformers of 300 amperes each, and the entire street lighting system in Kelseyville, in the said county of Lake;

(4) Each and every franchise now owned by the said parties of the first part for the operation of said public utility in the said county of Lake, and all other rights of way pertaining to and now used for the operation of said public utility owned by the said parties of the first part;

(5) Approximately nine (9) miles of telephone line extending from the powerhouse hereinabove referred to, to the town of Kelseyville, in the said county of Lake, and two (2) telephones;

(6) The water well and pumping plant equipment situate at the west end of Main street in the town of Kelseyville, in said county, together with the water system supplied therefrom and all irrigation pipe and rights of way for the same, together with the site upon which said water well is located, and more particularly described as, beginning at a cedar post on the east bank of Kelsey Creek, in the county of Lake, State of California, 119 feet northwesterly from the point of intersection of the said east bank of said Kelsey Creek with the north line of Main street in the said town of Kelseyville, and running thence north 30 feet, thence west 30 feet, thence south 30 feet, thence east 30 feet to the place of beginning.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

Applicants have not submitted an inventory and appraisal of the properties which they ask permission to sell. Charles Grunsky, an assistant engineer for the Commission, submitted an inventory and appraisal (Commission's Exhibit No. 1) of some of the properties to be transferred. His appraisal of such properties, as corrected by his testimony, gives an estimated historical reproduction cost new of \$32,767 and an estimated historical reproduction cost new less depreciation, of \$24,153. Neither in his report nor in his testimony did Mr. Grunsky estimate the value of water rights, or franchises. Mr. Gunn estimates the value of his franchises at \$1,000 and the value of his water rights at \$50,000. The Commission has not been furnished with any information showing the actual cost of either the franchises or the water rights which Mr. Gunn claims to own, nor any definite calculation showing how he arrived at said values. He testified that other parties have prior filings on Kelsey Creek and have been using water from such creek for irrigation purposes, but that in his opinion the persons who have rights on the creek will raise no objection to his constructing dams across said creek to store water and use the same for the generation of hydro-electric energy and thereafter sell it for irrigation purposes. His testimony shows that the \$50,000 value which he has assigned to water rights is a value that would attach thereto after his entire project has been constructed and placed in operation. The record before the Commission does not justify the Commission to accept the value of \$50,000 for the water rights which Mr. Gunn intends to transfer to the Lake County Water and Power Company.

Lake County Water and Power Company asks permission to issue and sell forthwith \$33,000 of 7 per cent 20-year bonds for the following purposes:

To construct 30-inch pipe line seven-eighths of a mile in length, diversion dam and appurtenances.....	\$14,000 00
To improve road to powerhouse.....	1,000 00
To refund note due Dr. F. G. Gunn.....	8,000 00
To return to treasury, moneys expended for additions and betterments, and thereafter use such moneys to pay debts.....	3,000 00
To purchase water meters and construct additions and betterments to water system	1,500 00
To pay for additions and betterments to electric system.....	1,500 00
Total	\$29,000 00

The debts chargeable to the present properties and which are to be assumed by the company and paid by it amount to about \$11,000.

Following the sale of the \$33,000 of bonds and the use of the proceeds for the purposes indicated, Lake County Water and Power Company

intends to proceed with the sale of \$99,900 of stock and \$67,000 of bonds, and to use the proceeds for the following purposes:

1. Line Work.

Making transmission lines 3-phase.....	\$3,000 00
Installing two 100-kilowatt transformers 2200-6600 volts at the powerhouse, with switches, etc.....	2,000 00
Installing two 50-kilowatt transformers at Kelseyville, 2200-6600 volts, with switches, etc.....	1,500 00
Additions to Lower Lake line and branches.....	3,000 00
Line extensions southwest of Kelseyville (3 miles).....	2,500 00
General additions and betterments to distribution system to supply new business and raise voltage to 11,000 volts when necessary.....	20,000 00

2. Storage Reservoirs.

To build dams to store water above the head of the new pipe line to be built to the powerhouse.....	70,000 00
To build a small dam below the powerhouse to regulate and hold the water after it leaves the powerhouse and use it for irrigation.....	30,000 00

3. Town Water System.

To build reservoir	5,000 00
To extend pipe system and supply meters and services.....	5,000 00

4. Irrigation (distribution).

To improve concrete dam and enlarge ditch.....	1,000 00
To make new ditches and pipe lines and services in Big Valley.....	20,000 00

5. Electro-Chemical Production.

To install 50-kilowatt plant to make carbide and ferrochrome.....	2,000 00
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6. Office and Store.

To build office and store for electrical and water supply goods.....	2,000 00
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Total	\$167,000 00
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Lake County Water and Power Company has submitted no copy of its proposed deed of trust or mortgage, securing the payment of its bonds. It has entered into no arrangements for the sale of either bonds or stock except that James A. Gunn, Jr., and Ida H. Gunn, his wife, have agreed to accept for their properties \$100,100 of stock of the company and Dr. F. G. Gunn has agreed to accept \$8,000 of the company's bonds in payment for the \$8,000 of notes which he now holds and which notes are payable by James A. Gunn, Jr. Neither of such sales will bring any cash into the company's treasury. An analysis of the evidence leads us to conclude that Lake County Water and Power Company should not at this time be permitted to issue any bonds. The earnings of the property to be acquired by it, the condition of such properties and the competition under which the properties are being operated creates considerable doubt as to whether they can within the next few years be operated so as to produce a profit with which to pay interest on bonds. We believe that substantially all of the \$29,000 to which reference has been made and which the company intended to obtain

through the issue of bonds should be secured through the issue and sale of stock.

ORDER.

James A. Gunn, Jr., and Ida H. Gunn, his wife, having applied to the Railroad Commission for permission to sell to the Lake County Water and Power Company their public utility properties described in this application, and the company having asked permission to purchase and operate such properties and issue stock and bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of \$68,000 of stock herein authorized, is reasonably required by the company and that the request of the company to issue \$100,000 of bonds and \$132,000 of stock, should be dismissed without prejudice;

It is hereby ordered, that James A. Gunn, Jr., and Ida H. Gunn, his wife, be and they are hereby authorized to sell to the Lake County Water and Power Company the properties described in the foregoing opinion and in this application, and that Lake County Water and Power Company be and it is hereby authorized to purchase and operate such properties.

It is hereby further ordered, that the Lake County Water and Power Company be and it is hereby authorized to issue in payment for such properties \$35,000 of common capital stock and assume the payment of the indebtedness of James A. Gunn, Jr., to which reference is made in this application.

It is hereby further ordered, that the Lake County Water and Power Company be and it is hereby authorized to issue and sell on or before November 1, 1925, at not less than \$90 per share net to said company, not exceeding \$33,000 of its common capital stock and use said net proceeds for the following purposes:

To construct 30-inch pipe line seven-eighths of a mile in length and diversion dam -----	\$14,000 00
To improve road to powerhouse -----	1,000 00
To refund note due Dr. F. G. Gunn -----	8,000 00
To return to treasury, moneys expended for additions and betterments, and thereafter use such moneys to pay debts -----	3,000 00
To purchase water meters and additions and betterments to water system -----	1,500 00
To pay for additions and betterments to electric system -----	1,500 00
Total -----	<u>\$29,000 00</u>

Any net proceeds not needed for the foregoing purposes may be expended only for such purposes as the Railroad Commission may hereafter authorize by a supplemental order or orders.

It is hereby further ordered, that this application in so far as it involves the issue of \$100,000 of bonds and \$132,000 of stock, be and the same is hereby dismissed without prejudice.

It is hereby further ordered, that Lake County Water and Power Company shall keep such record of the issue, sale and delivery of the \$68,000 of stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that within thirty days of the transfer of the properties herein authorized, Lake County Water and Power Company shall file with the Railroad Commission a verified copy of the deed under which it has acquired and holds title to said properties.

Dated at San Francisco, California, this twelfth day of May, 1925.

DECISION No. 14904.

IN THE MATTER OF THE APPLICATION OF MOTOR TRANSIT COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING IT TO EXTEND ITS AUTOMOBILE STAGE SERVICE SO AS TO PICK UP PASSENGERS AT SAN FERNANDO, CASCADE AND NEWHALL AND POINTS INTERMEDIATE THERETO, WHEN DESTINED FOR POINTS ON APPLICANT'S NORTHERN DIVISION NORTH OF SAUGUS, AND TO PERFORM A SIMILAR SERVICE IN THE REVERSE DIRECTION, AND FOR AN ORDER AUTHORIZING APPLICANT TO MERGE SAID OPERATION WITH THE OPERATION OF ITS NORTHERN DIVISION.

Application No. 10644.

IN THE MATTER OF THE APPLICATION OF MOTOR TRANSIT COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING IT TO EXTEND ITS EXISTING AUTOMOBILE STAGE SERVICE SO AS TO PICK UP PASSENGERS AT LOS ANGELES WHEN DESTINED FOR POINTS INTERMEDIATE BETWEEN SAN FERNANDO AND SAUGUS (BUT EXCLUSIVE OF ANY LOCAL SERVICE BETWEEN LOS ANGELES AND SAN FERNANDO), AND TO PERFORM A SIMILAR SERVICE IN THE REVERSE DIRECTION, AND FOR AN ORDER AUTHORIZING APPLICANT TO MERGE SAID OPERATION WITH ITS NORTHERN DIVISION OPERATION.

Application No. 10763.

Decided May 12, 1925.

CERTIFICATE—AUTO STAGE—UNIFIED OPERATION.—Motor Transit Company authorized to extend its operations to include service between San Fernando, Cascade and Newhall, and intermediate points, for passengers destined for points north of Saugus, and vice versa. Unified operation of such extension as a part of general system authorized.

Herbert W. Kidd, for Applicant.

Warren E. Libby, for Pickwick Stages, N. D., and Packard Stage Line, Protestants.

F. E. Watson, for Southern Pacific Company, Protestant.

G. E. Overstreet, for Original Stage Line, Protestant.

BY THE COMMISSION.

OPINION.

Motor Transit Company, a corporation, in Application No. 10644, as amended, seeks a certificate of public convenience and necessity to receive passengers and express matter at San Fernando, Cascade, Newhall and Saugus, and points intermediate, for transportation to points on applicant's lines north of Saugus on the Ridge route to Bakersfield and Taft, and on the Boquet canyon and Mint canyon routes to Lancaster, and to transport passengers and express from points north of Saugus to Saugus, Newhall, Cascade and San Fernando. In Application No. 10763, as amended, applicant seeks a certificate to transport passengers and express from Los Angeles and San Fernando to points between San Fernando and Saugus, and vice versa.

Hearings upon the applications were conducted by Examiner Williams at Los Angeles, at which time it was stipulated by all parties that the applications should be consolidated for receiving testimony and for decision. During the hearings, applicant was granted permission to file a specific amendment on express carriage and rates therefor, and such amendment was filed by applicant.

By Decision No. 13454, on Application No. 8454, applicant Motor Transit Company, which previously had been serving points between Castaic and Los Angeles and between Saugus and Los Angeles, was restricted from continuing any service intermediate to Los Angeles and Saugus and between Castaic and Los Angeles on its several lines. The effect of this decision was to eliminate San Fernando, Newhall and Castaic from applicant's operations, and service to these points was discontinued by applicant, in compliance with the order, on July 24, 1924.

Applicant now seeks restoration of the service found by Decision No. 13454 to have been illegally conducted and therefore ordered discontinued.

Applicant stipulated that no new service was proposed or would be given between Los Angeles and San Fernando, and no local service between Sylmar, north of San Fernando, and San Fernando. Whereupon protest of Original Stage Line was withdrawn.

Applicant produced many witnesses in support of public necessity for the restoration of service between Newhall, Cascade and San Fernando and points north of Saugus. Witnesses also were produced in support of the need of service between Cascade, Newhall and intermediate points, and Los Angeles, and vice versa. The witnesses included O. V. Spainhower, superintendent of the San Fernando power plant near Cascade; Thornton Doelle, newspaper publisher; James W. Doty, automobiles and service station; D. A. Densmore, butcher; C. F. Webber, plumber; C. H. Kingsbury, butcher; W. C. Lewman, oil well driller; Fred R. Lamkin, garage; Elwood D. Lowden, garage; Julius

W. Weiss, clothing and dry goods, and Chas. D. McGinnis, cafe, all of Newhall; W. J. Watson, service manager, Buyers' Service Corporation, Los Angeles; and Lloyd E. Rowe, automobiles and garage, San Fernando.

In addition to these witnesses, Frank N. Wallace, Placerita Canyon, near Newhall; Helen S. Deaver, Palmdale; Mrs. Mary Carson, near Palmdale; Mrs. Nina B. Wright, Mint Canyon; E. A. Pehrson, Lancaster, and George E. Harriman, Lancaster, all testified to the need of service from other points.

Testimony of these witnesses seems convincing that the public desires a choice of service and a resumption by applicant of both passenger and express operation. Newhall, the principal point to be served, has a population of approximately 300 people, and the witnesses included representatives of the business interests of the community. These witnesses testified that the community as a whole is interested in the resumption of applicant's service and instances were cited of inability to make use of the vehicles of protestant Pickwick Stages, due to the fact that these vehicles are frequently loaded to capacity and transportation is available only when there are vacant seats, and that the schedules entail long waits.

There was also testimony that there is need of transportation between points north of Saugus and points south of Saugus, including San Fernando, and that persons desiring such transportation are now required to pay the full Los Angeles rate in order to be transported from points north of Saugus to points south thereof, or from San Fernando and points between San Fernando and Saugus to points north on applicant's lines. The witnesses all expressed the view that inasmuch as applicant's vehicles pass through each of the communities, use would be made of them, if authorized, and that public sentiment is wholly in favor of restoring the service existing prior to July 24, 1924, with which witnesses were familiar. It was also evident from the testimony of these witnesses that not only are passengers discommoded by long waits both at Newhall and at protestant Pickwick Stages' Los Angeles terminal, due to this protestant's vehicles frequently being filled to capacity, but that protestant Pickwick does not carry express matter C. O. D. to points between San Fernando and Saugus and hence there is a considerable quantity of express matter that can not be shipped over its lines. Chas. D. McGinnis, a witness for applicant and formerly agent for both the Pickwick and Motor Transit services at Newhall, testified that previous to the discontinuance of service by Motor Transit Company in July, 1924, this company (now applicant) carried about two-thirds of the express business in and out of Newhall.

Mr. McGinnis further testified that vehicles of protestant Pickwick reached Newhall from Los Angeles at 8.45 a.m., 9.15 a.m., 11.30 a.m., 1 p.m., 1.55 p.m., 4.15 p.m., 5.25 p.m. and 7.15 p.m., with approximately the same distribution of service from Newhall to Los Angeles.

In addition to the service as set forth in the foregoing paragraph, applicant offers 14 schedules southbound and 15 northbound via Ridge route, two schedules in each direction via Boquet canyon and two in each direction via Mint canyon (Lancaster division), and two limited cars operating between Bakersfield and Los Angeles. It was the testimony of F. D. Howell, vice president of applicant company, that frequently two, and sometimes as many as four, cars are operated on a schedule.

Protestant Pickwick Stages did not refute or satisfactorily explain the testimony of witnesses that it had refused to transport express matter C. O. D. to Newhall.

Protestant Southern Pacific Company operates four trains daily in each direction, serving Saugus, Newhall, San Fernando and Los Angeles, with an extra westbound train after midnight.

We do not believe the showing made by protestants meets the test of adequacy of service. The testimony of witnesses is that the service of protestants, while frequent, is not always available at hours that are convenient; that rail service is seldom used by them for this reason; and that the service of protestant Pickwick Stages is frequently not available by reason of the fact that its vehicles are loaded to capacity. Protestant Pickwick Stages' Exhibit No. 3 shows trip segregations of capacity and seat vacancies for December, 1924, and January, 1925. Nine trips each way are shown and the totals for the two months indicate that all vehicles operated possessed a seating capacity of 10,181, with a seat vacancy of 6782. During the same period, passengers in both directions between Los Angeles and Newhall aggregated 206; Saugus, 74; San Fernando and Newhall, 173; San Fernando and Saugus, 73; Newhall and Saugus, 22. As against this showing there is the uncontradicted testimony of many witnesses that access to vehicles is frequently denied because of capacity loads both at Newhall and Los Angeles, involving a wait of at least an hour for another stage, together with a general lack of assurance, prior to the arrival of vehicles, that transportation may be obtained. There was also testimony that protestant Pickwick's vehicles do not stop at roadside points and that they frequently pass through the communities without stopping.

While applicant herein proposes to perform only the same service as protestant Pickwick and not to operate local service between San Fernando and Saugus, the additional facilities offered will give a choice of service as it existed prior to July, 1924, and will, in our opinion, better meet the needs shown by the record herein.

In view of the fact that the vehicles of applicant pass through the communities seeking service, and that such service would therefore be a convenience to the public, we are of the opinion that the applications herein should be granted, both as to passenger and express business, and an order to this effect will be entered.

ORDER.

Motor Transit Company, a corporation, having applied to the Railroad Commission for a certificate of public convenience and necessity to extend its service to include transportation of passengers and express between San Fernando, Cascade and Newhall, and points intermediate, when such passengers and express are destined for points on applicant's lines north of Saugus, and vice versa, and to merge said operation with the general operation of applicant's northern division, a public hearing having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the service herein applied for by applicant, over and along the routes now traversed by applicant in its northern division; and

It is ordered, that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to conditions appended to and following this order.

Motor Transit Company, a corporation, having made application to the Railroad Commission for a certificate of public convenience and necessity to extend its service by transporting passengers and express between Los Angeles and points intermediate to San Fernando and Saugus, but excluding any local service between Los Angeles and San Fernando, and excluding service between San Fernando and Sylmar, and to merge this operation with the general operation of applicant's northern division, a public hearing having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the service as proposed by applicant herein, both as to passengers and express, over and along the routes now traversed by applicant in its northern division; and

It is ordered, that a certificate of public convenience and necessity therefor be and the same hereby is granted subject to the conditions appended to and following this order:

I. Applicant shall, within twenty (20) days from the date hereof, file with this Commission its written acceptance of the certificates herein granted as an extension and enlargement of its present existing rights as defined by Decision No. 13454 on Application No. 8454, and not as a new or separate right.

II. Applicant shall file, in duplicate, within twenty (20) days from date hereof, time schedules and tariff of rates identical with those as set forth in exhibits attached to the applications herein, and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

III. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

IV. No vehicle may be operated by applicant under the authority hereby granted unless such vehicle is owned or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twelfth day of May, 1925.

DECISION No. 14910.

IN THE MATTER OF THE APPLICATION OF THE HOLLISTER WATER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE NOTES NOT TO EXCEED, IN THE AGGREGATE, THE SUM OF TWENTY-FIVE THOUSAND DOLLARS.

Application No. 11051.

Decided May 12, 1925.

SECURITY ISSUE—UNSECURED NOTES.—Issuance of \$25,000 of unsecured notes by The Hollister Water Company authorized.

Geo. D. Clark, Wm. Palmtag, and J. H. Belser, for Applicant.

BY THE COMMISSION.

OPINION.

In this application The Hollister Water Company asks permission to issue its unsecured promissory notes in the principal amount of \$25,000 bearing interest at not exceeding 6 per cent per annum and due on or before three years after date, for the purpose of paying outstanding indebtedness and of financing the cost of pipe lines.

It appears that The Hollister Water Company was organized on or about June 6, 1885, and is at present engaged in supplying water for domestic, industrial and other purposes in and about the town of Hollister, San Benito County, serving 1062 consumers on December 31, 1924. The company reports its gross income for the year 1922 at \$29,567.69, for 1923 at \$29,783.46, and for 1924 at \$31,055.54. After paying operating expenses, including depreciation, and interest and other fixed charges, it reports a profit of \$14,028.91 in 1922, of

\$15,669.14 in 1923, and of \$15,583.73 in 1924. Its assets and liabilities as of December 31, 1924, are reported as follows:

<i>Assets.</i>	
Fixed capital -----	\$328,625 24
Cash -----	1,312 74
Special deposits -----	2,425 99
Accounts receivable -----	2,185 25
Materials and supplies -----	9,219 89
Prepayments -----	216 60
Discount on stock -----	37,151 34
Total assets -----	\$381,137 05
<i>Liabilities.</i>	
Capital stock -----	\$100,000 00
Notes payable -----	7,500 00
Accounts payable -----	445 99
Reserve for depreciation -----	79,135 52
Corporate surplus -----	194,055 54
Total liabilities -----	\$381,137 05

The company now reports the necessity of issuing \$25,000 of notes to pay the outstanding indebtedness of \$7,500, shown in the foregoing balance sheet, and to provide for the purchase and installation of 10-inch and 12-inch cast-iron pipe to replace wooden pipe that has been in the ground for about thirty years. The record shows that during 1924 the company installed about 8430 feet of 8-inch steel pipe at a cost of about \$10,000 which was financed, in part, through the issue of the \$7,500 note it is now proposed to pay. The company reports that during the current year, and 1926 and 1927 it will be called upon to install, at a cost of \$24,201, about 11,487 feet of 10-inch and 12-inch pipe.

Applicant intends to issue the notes applied for herein from time to time, over the three-year period in which it plans to carry on the replacement work. It desires permission to issue notes for less than a term of three years and renew them from time to time during the three-year period.

ORDER.

The Hollister Water Company having applied to the Railroad Commission for permission to issue \$25,000 of notes, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required by applicant;

It is hereby ordered, that The Hollister Water Company be and it is hereby authorized to issue not exceeding \$25,000 of its unsecured promissory notes, payable on or before three years after the date of this order, with interest at not exceeding 6 per cent per annum, for the

purpose of paying the outstanding indebtedness of \$7,500, and of financing the cost of purchasing and installing the pipe lines to which reference is made in the foregoing opinion.

It is hereby further ordered, that The Hollister Water Company may, if it so desires, issue the \$25,000 of notes herein authorized for a period of less than three years, and may renew them from time to time, provided that the combined terms of the notes originally issued and of those given in renewal, may not exceed a period of three years from the date of this order.

It is hereby further ordered, that The Hollister Water Company shall keep such record of the issue and delivery of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted shall not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this twelfth day of May, 1925.

DECISION No. 14919.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF LOS ANGELES, THE CITY OF LOS ANGELES, THE CITY OF LONG BEACH, BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LOS ANGELES AND THE LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A VIADUCT OVER DOMINGUEZ CREEK ON THE ANAHEIM ROAD, IN THE WILMINGTON DISTRICT, AND APPROVING THE AGREEMENT OF SAID PARTIES RELATIVE TO THE APPORTIONMENT OF THE COST OF SUCH CONSTRUCTION.

Application No. 11048.

Decided May 14, 1925.

RAILROAD CROSSING—SEPARATION OF GRADES—VIADUCT.—Construction of a viaduct over Dominguez creek, on the Anaheim road, in the Wilmington district, Los Angeles, authorized. Cost apportioned among principals using the same in the proportion agreed upon.

BY THE COMMISSION.

OPINION.

This is a joint application of the county of Los Angeles, the city of Los Angeles, the city of Long Beach, Board of Harbor Commissioners of the city of Los Angeles and the Los Angeles and Salt Lake Railroad Company for an order authorizing the construction of a viaduct over Dominguez Creek on the Anaheim road in the Wilmington district, and approving the agreement of said parties relative to the apportionment of the cost of such construction.

The viaduct proposed in this proceeding is the one designated for Anaheim road in Decision No. 14059 made in Application No. 9694. In that decision, approval of detail plans and specifications to carry Anaheim road above the tracks of the Los Angeles and Salt Lake Railroad Company on a viaduct with six bays or panels was reserved for future decision. The necessity of the viaduct was fully covered in that proceeding. The apportionment of cost among the interested parties, excluding the Los Angeles and Salt Lake Railroad Company, which was assessed with one-eighth of the cost, was likewise reserved for future decision. Applicants named above now petition for approval of plans and specifications filed with the application and for approval of an apportionment of the cost of said viaduct in accordance with an agreement entered into by them, copy of which agreement is attached to the application.

The application sets forth as follows:

That it has been agreed by said parties that said viaduct shall be so constructed so as to form six (6) ducts or bays thereunder, available and suitable for the following purposes and uses:

Three (3) or more ducts or bays to be used for railroad purposes, and affording facilities for double track railroads traversing each of said ducts or bays for the uses and purposes of, and to be apportioned, one of said ducts or bays to each of the following parties, to wit: The said city of Long Beach, the said Harbor Department, the said Los Angeles and Salt Lake Railroad Company, and the said city of Los Angeles;

One or more ducts or bays to be available for the flow of flood waters in and along said Dominguez Creek and under and through said viaduct if and when necessary, and/or such other use as the city shall find to be necessary or expedient.

That the overhead structure of said viaduct shall be designed, constructed and used as a way of travel for vehicular and pedestrian traffic.

It has been estimated that the cost of said viaduct will be approximately \$535,000.

Under the agreement hereinbefore mentioned, the parties hereto propose to divide the cost among themselves as follows:

Fifty per centum (50%), or approximately two hundred sixty-seven thousand five hundred dollars (\$267,500), of the cost of said viaduct shall be regarded as the cost of the portion of said structure to be borne by the parties using the said ducts or bays passing under said viaduct and designed and intended to be used for railroad purposes and to be apportioned to and borne by said parties, as follows:

The said city of Long Beach twenty-five per centum (25%) of said fifty per centum (50%), or twelve and one-half per centum ($12\frac{1}{2}\%$) of the total cost of said viaduct;

The said Board of Harbor Commissioners twenty-five per centum (25%) of said fifty per centum (50%) or twelve and one-half per centum ($12\frac{1}{2}\%$) of the total cost of said viaduct;

The said city of Los Angeles twenty-five per centum (25%) of said fifty per centum (50%), or twelve and one-half per centum ($12\frac{1}{2}\%$) of the total cost of said viaduct;

The Los Angeles and Salt Lake Railroad Company twenty-five per centum (25%) of said fifty per centum (50%), or twelve and one-half per centum ($12\frac{1}{2}\%$) of the total cost of said viaduct.

That fifty per centum (50%), or approximately two hundred sixty-seven thousand five hundred dollars (\$267,500), of the cost of said viaduct shall be regarded as the cost of the overhead structure thereof, and shall be apportioned to and paid by the said county of Los Angeles and the said city of Los Angeles, as follows:

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Such sum as shall be determined by the city engineer would be required to construct across said Dominguez Creek over the limits of the proposed viaduct in accordance with the plans and specifications hereto attached, a cement concrete two-span bridge of sufficient capacity to care for the storm waters of said creek and the fill and grading and paving necessary for a street eighty (80) feet in width and a roadway sixty (60) feet from curb to curb, with sidewalks and curbs on each side, not to exceed in any event the sum of eighty thousand dollars (\$80,000), shall be placed on an assessment district created for the improvement of said Anaheim road; the balance of said fifty per centum (50%) of the total cost of said viaduct regarded as the cost of overhead structure thereof, or approximately two hundred sixty-seven thousand five hundred dollars (\$267,500), to be borne one-half ($\frac{1}{2}$) by the said county of Los Angeles and the other one-half ($\frac{1}{2}$) by the said city of Los Angeles.

It has been further agreed by and between said parties that if and when the construction of said viaduct shall have been authorized and the agreement of the parties hereto relative to the construction and apportionment of the cost thereof, and plans and specifications for the construction of said viaduct shall have been approved by the Railroad Commission, the said city of Los Angeles shall be authorized to acquire the necessary lands, furnish all plans, do all surveying, furnish all supervision, and let any and all contracts necessary for the construction of said viaduct and the approaches thereto, in accordance with the plans and specifications so approved, and supervise the work of the construction of said viaduct; that the city shall pay all costs and expenses of the work so to be supervised, controlled and directed by it, subject to reimbursement by the other parties hereto in the manner and at the times set forth in said agreement.

The plans and specifications submitted with this application fulfill the conditions and requirements for a viaduct as set forth in Decision No. 14059, dated September 15, 1924, and meet with the approval of the Commission. The apportionment of the cost as set forth in the agreement attached to the application and set forth above, appears equitable. It therefore appears to the Commission that a public hearing in this proceeding is not necessary and that this application should be granted subject to certain conditions in the following form of order:

ORDER.

It is hereby ordered, that the county of Los Angeles, city of Los Angeles, city of Long Beach, Board of Harbor Commissioners of the city of Los Angeles and Los Angeles and Salt Lake Railroad Company be and they are hereby authorized to construct a viaduct over Dominguez Creek over the Anaheim road in the Wilmington district in the city of Los Angeles, substantially in accordance with plans and specifications filed with the application, subject to the following conditions:

(1) City of Los Angeles shall within thirty (30) days thereafter notify this Commission, in writing, of the completion of the installation of said viaduct.

(2) If said viaduct shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void unless further time is granted by subsequent order.

It is hereby further ordered, that the cost of constructing said viaduct shall be apportioned between the applicants in accordance with the

terms of that certain agreement, dated November 13, 1924, a copy of which is attached to the application.

It is hereby further ordered, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and apportionment of costs of said viaduct as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of May, 1925.

DECISION No. 14921.

IN THE MATTER OF APPLICATION OF SOUTHERN PACIFIC COMPANY
FOR AN ORDER AUTHORIZING THE CONSTRUCTION AT GRADE
OF A SPUR TRACK ACROSS SAN FERNANDO ROAD, WEST GLEN-
DALE STATION, IN THE CITY OF GLENDALE, COUNTY OF LOS
ANGELES, STATE OF CALIFORNIA.

Application No. 10917.

Decided May 14, 1925.

GRADE CROSSING—SPUR TRACK.—Application of Southern Pacific Company for authority to construct spur track at grade across San Fernando road, West Glendale station, denied.

C. W. Cornell, for Southern Pacific Company.

Leslie R. Tarr, for City of Glendale.

George A. Damon, for Los Angeles County Regional Planning Committee.

SHOBE, Commissioner.

OPINION.

In this application Southern Pacific Company asks permission to construct a spur track at grade across San Fernando road between California avenue and Milford street in the city of Glendale.

A public hearing was held in this matter in Los Angeles, April 16, 1925.

In the vicinity of the proposed grade crossing, San Fernando road is adjacent to and on the northeasterly side of Southern Pacific Company's right of way. On January 12, 1922, the city of Glendale passed a zoning ordinance which classifies the district adjacent to the northeast side of San Fernando road as industrial property. This area is occupied by industries, small business establishments and residences, and is only partially developed.

San Fernando road is one of the most important through highway arteries in southern California. Although there is a plan to construct a new highway along the east bank of the Los Angeles River, which is to the west of the railroad in the vicinity of the proposed crossing, it is very evident that San Fernando road will still be a very important through highway artery. The greater portion of the through traffic of

the so-called "Valley Route," as well as a considerable portion of the "Coast Route" traffic to the north passes over this highway and probably will continue to do so. Its importance, therefore, as a traffic artery can scarcely be over-emphasized.

The spur track proposed herein is to serve a lumber yard located on the northeast side of San Fernando road, about 100 feet north of California street. This lumber yard was established in 1921, and, up to the present time, has hauled its lumber in trucks from Southern Pacific Company's team track at West Glendale across San Fernando road to its yard.

The question now under consideration should be considered from two points of view, namely, the local effect and the general effect that would result from the granting of this application.

Considering first the local effect: During the year of 1923 this company received about 200 cars of lumber, while in 1924 about 150 cars were received. It is estimated that on an average one carload of lumber is equivalent to ten truck loads. Applicant contends that the trucking of lumber across San Fernando road creates more hazard and inconvenience to the traveling public than would be the case if this material were transported across the highway by means of railroad cars. I am not convinced, however, that this argument is valid. In measuring the relative public hazard of the two methods of conveying the lumber across the street, it is no doubt true that train movement across a street is more hazardous than the movement of a truck crossing the highway between intersections, but the ratio of hazard between two kinds of movement does not appear to have been conclusively determined.

Considering the public hazard that would be incident to the construction of the proposed spur track by itself, it does not present such seriously objectionable features as are evident when considering the general effect that would result therefrom. If the Commission is to grant this application, it could not, without discrimination, reasonably deny similar applications that will undoubtedly be filed in the future, as the industrial area to the northeast of San Fernando road develops. Unquestionably a multiplicity of spur tracks across such an important highway presents a serious obstacle to the convenient use of this important highway artery by the public.

On the other hand, reasonable provision for the construction of railroad facilities which are essential to industrial development is also a consideration of prime importance, and when these two important public interests conflict, very careful study should be given to their relative weight or to the development of a plan of serving the needs of each without interfering with the other.

A city such as Glendale certainly has the right to encourage the establishment of important industries, and industrial areas can be most logically located adjacent to steam railroads. We therefore have the situation in Glendale where the logical location for heavy industrial development is separated from the railroad by one of the heaviest traveled vehicular highways, from a through traffic point of view, in the state. There is at present only one spur track across San Fernando road in this general vicinity, it being a spur serving the Standard Oil Company and located north of Colorado avenue. Permission for this crossing was granted by the Commission's Decision No. 8322, dated November 8, 1920, and it may be that in the interest of the general public, the Commission in the future will deem it proper to revoke authority for this crossing.

It is pointed out that an industrial district along the northeast side of the railroad in the vicinity of the proposed crossing could be developed without the construction of a series of spur tracks across a through highway artery, by either relocating San Fernando road between Maple street and Doran street to a point approximately 600 feet northeast of its present location, or constructing a drill track to the northeast of San Fernando road through the area designated as industrial property. Each of these methods would, however, be rather difficult to accomplish, due to the fact that the property is held by a large number of different owners, not all of whom would probably agree as to the advantages of such an arrangement to their own private interests.

If San Fernando road were relocated as suggested, the replaced portion could either be abandoned or retained as a local industrial street, according to which plan appeared to give the greatest benefits to the district affected. This plan would clearly remove all objection to an intensive industrial development of the area adjacent to the railroad. Such a relocation of San Fernando road would be a large undertaking and would involve a very large expense, but it would unquestionably result in large benefits to the property between the new location of San Fernando road and the railroad. Another great advantage of removing San Fernando road from the railroad would be that it would simplify the construction of any future grade separation of east and west major highways across the Southern Pacific Railroad.

With respect to constructing a drill track through the industrial property to the northeast of San Fernando road, such an arrangement seems practical only if all the property owners were agreeable to the project. While it is recognized that the proposed drill track would cross a number of east and west streets, two of which are important, namely Broadway and Colorado, it is considered that such an arrangement would not constitute a public hazard of as great a magnitude as would a series of spur tracks across San Fernando road.

The district to the west of the railroad, in the vicinity of the proposed crossing, lies in the city of Los Angeles, as the southwest line of the railroad right of way marks the boundary between the cities of Los Angeles and Glendale. This district, although sparsely developed at this time, is now being opened for intense industrial development, as the Southern Pacific Company has recently constructed a system of spur tracks through this property to serve the prospective industries.

It thus appears that under the present conditions the district to the west of the railroad offers a favorable location for heavy industrial development. San Fernando road is now being widened and paved to a minimum width of 40 feet. The property to the east thereof offers a favorable location for light industrial development without industrial track service.

After considering all the evidence in this proceeding, it appears that this application should be denied.

The following form of order is recommended:

ORDER.

Southern Pacific Company having made application to this Commission for permission to construct a spur track at grade across San Fernando road between California street and Milford street, in the city of Glendale, Los Angeles County, California, a public hearing having been held, the matter having been duly submitted and now ready for decision, for the reasons stated in the foregoing opinion;

It is hereby ordered, that the above entitled application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of May, 1925.

DECISION No. 14922.

IN THE MATTER OF THE APPLICATION OF ARTHUR W. NICHOLLS
FOR AUTHORIZATION TO INCREASE RATES FOR WATER AT
DUTCH FLAT, CALIFORNIA.

Application No. 10704.

Decided May 14, 1925.

RATES—WATER UTILITY.—A. W. Nicholls authorized to place in effect certain increases of rates.

A. W. Nicholls, in propria persona.

BY THE COMMISSION.

OPINION.

A. W. Nicholls, who owns and operates a small domestic water system supplying the town of Dutch Flat, an unincorporated community in Placer County, makes application as above entitled for an increase in rates.

The application in this proceeding alleges in effect that the present rate schedule does not produce sufficient revenue to provide for the cost of operation, maintenance and depreciation and a fair return upon property devoted to the public use. Wherefore the request is made for authority to put into effect a proposed schedule of increased rates, or such other rate schedule as the Commission may deem proper and just.

A public hearing in this matter was held before Examiner Satterwhite at Dutch Flat, after all interested parties had been duly notified and been given an opportunity to appear and be heard.

The original system for the supply of this town was installed in the early mining days, the source of supply being certain nearby springs, from which the water was delivered to a reservoir and thence by gravity to the consumers. The main distribution pipes through the town were installed by the local fire department and were intended primarily for fire protection. The cost was met by private subscriptions obtained from local residents. By an agreement made between the fire department and the original owners of this utility, the fire mains have been used for the distribution of domestic water in return for the furnishing of water free of charge for fire protection purposes.

The present owner, A. W. Nicholls, acquired this public utility water system in 1911 for \$605 and thereupon made certain improvements and additions to the system, including a new source of water supply from Little Bear River ditch. This ditch was leased from the Pacific Gas and Electric Company for a rental of \$75 per year, applicant bearing the costs of maintenance and repairs thereon.

The system as at present installed consists of the above-mentioned leased ditch, a diversion flume and ditch leading to an earthen reservoir of 65,000 gallons capacity, lined with timber and concrete, a small amount of wrought iron pipe mains and the above-mentioned community-owned fire mains on which the majority of the service taps have been made. The present service connections, active and inactive, total 59. There are now about 49 active consumers on the system, ten of whom take water only for irrigation purposes during the summer season. The water for domestic use is obtained by these consumers from private springs.

The rates now in effect are as follows

<i>Little Bear River Ditch.</i>		
Residences -----	\$1 00	per month
Residences with irrigation -----	20 00	per year
<i>Dutch Flat Water Works.</i>		
Flat rates—		
Schoolhouse -----	\$1 00	per month
Residence (no hose connections) -----	1 00	per month
Residence with small yard -----	1 50	per month
Residence with large yard -----	2 00	per month
Residence with yard and barn -----	2 00	per month
Barn only -----	1 50	per month
Saloon -----	1 50	per month
Garden, summer months only -----	2 00	per month
Garden, all year -----	12 00	per year
Water trough -----	free	
Fire hydrants (per agreement) -----	free	

A field investigation of this utility was made for the purpose of this proceeding by P. J. Noerager, one of the Commission's engineers, and his report and appraisal thereon was accepted by applicant without protest. This report shows the estimated original cost of the present system to be \$2,155 exclusive of leased property and the pipe lines belonging to the fire department, and the depreciation annuity to be \$29, computed by the 5 per cent sinking fund method.

The revenues and the maintenance and operation expenses of this utility for the past three years, as compiled from the annual reports filed with the Commission, are as follows:

	1922	1923	1924
Revenues -----	\$583 75	\$614 25	\$713 75
Operating expenses, exclusive of depreciation -----	423 00	448 17	633 02
Available for depreciation and interest return -----	\$150 75	\$166 08	\$80 73

An analysis of the details of the operating expenses as submitted shows that the increase in the expenses for the year 1924 over the previous years is due to certain extraordinary repairs on the ditch and reservoir and to the renewal of certain sections of the fire mains, which replacements are not properly chargeable to operating expenses.

Taking the above expenditures into consideration, together with the present operating methods and conditions, the Commission's engineer submitted an estimate of \$558 as a reasonable sum to allow for the maintenance and operation expenses for the immediate future. After a careful consideration and analysis of all the evidence submitted, together with the facts set out above, it appears that the following annual charges are fair and reasonable:

<i>Annual Charges.</i>	
Maintenance and operation expenses -----	\$560 00
Depreciation annuity -----	29 00
Interest return -----	172 00
Total annual charges -----	\$761 00

Applicant's operating revenues totaled \$614.25 in 1923 and \$713.75 in 1924. The evidence shows that the increased revenue received in 1924 was mainly attributable to service rendered a construction gang temporarily located in the town. Under normal conditions of operation the present rates will yield an annual revenue of approximately \$630. It is apparent therefore that applicant is entitled to some increase in the rates.

From an analysis of the water use tabulation submitted at the hearing it appears that it will be more desirable and practicable to derive the increased revenue to which applicant is entitled, by readjustment of the present form of rate schedule rather than by the establishment of an entirely different type of rate structure such as is embodied in the service charge proposed by applicant. The schedule of rates set out in the following order has been computed and designed to produce approximately the above estimated annual charges.

ORDER.

Arthur W. Nicholls having made application to the Railroad Commission as entitled above, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed thereon:

It is hereby found as a fact that the rates now charged by applicant for water delivered to consumers in and in the vicinity of the town of Dutch Flat are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates to be charged for such service.

And basing its order upon the foregoing findings of fact and on the other statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Arthur W. Nicholls be and he is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for all water delivered to his consumers in Dutch Flat and vicinity on and after the first day of June, 1925:

Flat rates—	Rate Schedule.
Residence (no hose connections)-----	\$1 15 per month
Residence with small yard irrigated-----	1 00 per month
Residence with large yard irrigated-----	2 25 per month
Residence with yard and barn-----	2 25 per month
Barn-----	1 50 per month
Pool room, barber shop and ordinary stores-----	1 50 per month
Irrigation of garden only payable six months of year-----	2 00 per month
Use of water from hydrants on community-owned system for fire protection purposes and for watering trough, no charge (per agreement).	
Public halls and lodge rooms with kitchen and toilet-----	1 50 per month
General store, including butcher shop, refrigerator and ice plant	4 00 per month
Swimming pool, payable 6 months-----	1 50 per month
School-----	36 00 per year

It is hereby further ordered, that Arthur W. Nicholls file with the Railroad Commission within thirty (30) days from the date of this order revised rules and regulations governing service to his consumers, said rules and regulations to become effective upon acceptance for filing by the Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of May, 1925.

DECISION No. 14923.

IN THE MATTER OF THE APPLICATION OF SOUTH SHORE PORT COMPANY, INCORPORATED, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE VESSELS FOR THE TRANSPORTATION OF PROPERTY FOR COMPENSATION BETWEEN POINTS UPON THE INLAND WATERS OF THE STATE OF CALIFORNIA.

Application No. 10902.

Decided May 14, 1925.

CERTIFICATE—TRANSPORTATION—CARRIER BY WATER.—South Shore Port Company, Inc., authorized to operate freight vessels and auto trucks for the transportation of property for compensation between Oakland and Alameda on the one hand, and Port South Shore and other points in Santa Clara Valley, on the other hand.

John S. P. Dean, for Applicant.

Gwyn H. Baker, for San Jose Transportation Company.

C. M. Corell, for Encinal Terminals.

Sanborn, Rochl and DeLancey C. Smith, by *H. H. Sanborn*, for Bay Cities Transportation Company.

BY THE COMMISSION.

OPINION.

South Shore Port Company, Inc., a corporation, with its principal place of business at Mountain View, California, applies under the provisions of paragraph (d), section 50, of the Public Utilities Act for a certificate of public convenience and necessity authorizing the operation by it of vessels in connection with auto trucks for the transportation of property, for compensation, between Oakland and Alameda on the one hand, and Port South Shore and other points now served by applicant in Santa Clara County, on the other hand.

The petition shows that applicant owns and operates one vessel and six auto trucks in the performance of its common carrier duties between San Francisco and Port South Shore, Palo Alto, Mayfield, Mountain View, Sunnyvale, Santa Clara, San Jose, Cupertino, Saratoga, Los Gatos, Campbell, Alviso, Coyote, Morgan Hill, San Martin, Gilroy and points intermediate thereto, and also points located two miles on either side of the traversed roads and highways.

A public hearing was held at San Francisco, April 14, 1925, before Examiner Geary, and the matter having been duly submitted is ready for a decision.

The freight rates and charges proposed by applicant between Oakland-Alameda and Port South Shore and other points in the Santa Clara Valley now served by it are on a slightly higher basis than those now in effect from or to San Francisco. The class rates are higher by 1 cent at Oakland and 2 cents at Alameda than the San Francisco rates, and there does not appear to be any established differential in the proposed commodity rates, but all are different from those in effect from or to San Francisco.

Applicant started operation during July, 1923, between San Francisco and Port South Shore, only. Effective September 29, 1923, by authority of this Commission in Decision No. 12648, the territory was extended to other points in Santa Clara County in connection with joint auto truck service performed by South Shore Drayage Company. On March 1, 1924, the latter company was absorbed by applicant and since that time the entire service has been operated by South Shore Port Company.

The present equipment of applicant includes one motor ship, 89 feet long and 28 feet wide, with a net capacity of 79 tons; six auto trucks, consisting of two 4-ton Garfords; two 2½-ton Garfords, and two 2-ton Fords, and terminal facilities at Port South Shore. There is now under construction one twin Deisel motor ship 106 feet long and 32 feet wide with a net capacity of 135 tons, which, according to the testimony of applicant's manager, is necessary to adequately handle the traffic.

Our decision in Application No. 10955, of even date, authorizing the South Shore Port Company, Inc., to execute a deed of trust and to issue and sell \$100,000 of 7 per cent 5-year notes, outlines in detail applicant's financial condition, hence it will be unnecessary to here again deal with that phase of the petition.

The service to be performed will consist, at the beginning, of three trips a week to Oakland and Alameda and this will make possible the delivery of tonnage early in the morning following the day of receipt at point of shipment, an arrangement not now possible when handled by truck and railroad. The service will be increased to one round trip daily as soon as the volume of the tonnage justifies. At the present time about 75 per cent of the traffic handled moves southbound and 25 per cent northbound. With Oakland and Alameda deliveries, it is hoped to increase the northbound traffic materially. It was stipulated no local traffic would be handled between San Francisco and Oakland.

There were witnesses in attendance, supporting the application, representing the Encinal Terminal Company of Alameda, the Terminal Com-

panies of Oakland, a large automobile freight line, and the California Packing Corporation. The testimony of all of these interested parties was to the effect that recent development at the Alameda and Oakland water terminals had created a new situation, making necessary close connections with the boat lines operating on the inland waters with ocean-going vessels. The general manager of the Encinal terminal properties testified that Alameda would eventually have facilities patterned after those of the Bush terminals in New York city; that at the present time there are 1500 feet of berthing space, and that the second and third units, under construction, would enlarge the facilities to 2000 feet. It was shown there is a very large tonnage handled at all of the terminals, particularly commodities moving via inland water carriers and transferring to ocean-going vessels for transportation to all important world ports direct to the Orient and through the Panama Canal.

The Oakland-San Jose Transportation Company, operating auto truck service between Oakland and San Jose and intermediate points, protested the application, alleging that because the boat rates will be lower than those now being assessed by the truck company revenues would be affected, making a continual and satisfactory service more difficult. But protestant does not operate to Alameda and the new service here proposed will furnish concentrated movements of heavy tonnage intended for immediate transshipment at the Oakland and Alameda terminals. We believe the objections of a truck company in a situation of this kind has but little merit.

Upon consideration of the record we are of the opinion and find as a fact that public convenience and necessity require the establishment of a service by vessel between Oakland-Alameda, on the one hand, and Port South Shore on the other, in connection with the service performed by automobiles between Port South Shore and other points located in Santa Clara County now served by applicant, as set forth in the petition, and that a certificate should be granted.

In granting this application we are not authorizing any local service between San Francisco and Oakland-Alameda, neither are we passing upon the reasonableness of the proposed rates.

ORDER.

A public hearing having been held in the above entitled proceeding, the case having been submitted and now ready for a decision, the Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by South Shore Port Company, Inc., of vessels and auto trucks for the transportation of property, for compensation, between Oakland and Alameda, on the one hand and Port South Shore and other points in Santa Clara Valley now served by applicant, on the other hand, as set forth in the application ;

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions:

The applicant shall file tariffs, within twenty (20) days according to the rules of this Commission, setting forth the rates, rules and regulations governing transportation of property, which shall be those as set forth in Exhibit "B," attached to the application and made a part thereof.

Dated at San Francisco, California, this fourteenth day of May, 1925.

DECISION No. 14924.

IN THE MATTER OF THE APPLICATION OF SOUTH SHORE PORT COMPANY, INCORPORATED, FOR AN ORDER AUTHORIZING A LOAN OF ONE HUNDRED THOUSAND DOLLARS, SECURED BY A DEED OF TRUST.

Application No. 10955.

Decided May 14, 1925.

SECURITY ISSUE—NOTES.—South Shore Port Company, Inc., authorized to issue and sell \$100,000 of notes payable in five years, with interest at not exceeding 7 per cent per annum.

John S. P. Dean, for Applicant.

Gwyn A. Baker, for Oakland-San Jose Transportation Company.

BY THE COMMISSION.

OPINION.

In this application South Shore Port Company, Inc., asks the Railroad Commission to make an order authorizing it to execute a deed of trust and to issue and sell \$100,000 of 7 per cent 5-year notes for the purpose of paying indebtedness, and of financing the cost of additional property and equipment.

The record shows that South Shore Port Company, Inc., is engaged in the business of transporting freight by motor boat and by trucks between San Francisco waterfront and points in the Santa Clara Valley. It appears that the corporation was organized on or about August 2, 1920, and at first operated from San Francisco to Port South Shore only, using for this purpose one motor boat. Later, however, pursuant to authority granted by the Commission by Decision No. 13189, dated February 20, 1924, it acquired from South Shore Drayage Company the operative right to transport freight by automobile stages from Port South Shore to Palo Alto, Mayfield, Mountain View, Sunnyvale, Santa Clara, San Jose, Cupertino, Saratoga, Los Gatos, Campbell, Alviso, Coyote, Morgan Hill, San Martin and Gilroy over all roads and highways and for a distance of two miles on either side of roads and highways, traversed in reaching such communities. Heretofore it has been

reported that the motor boat operations were started about July 25, 1923, and the auto stage operations about March 1, 1924.

As of December 31, 1924, applicant reports its assets and liabilities as follows:

<i>Assets.</i>	
Property and equipment -----	\$167,288 45
Cash -----	57 92
Notes receivable -----	165 00
Accounts receivable -----	1,845 84
Prepayments -----	852 75
Discount on stock -----	21,260 00
Total assets -----	\$191,469 96
<i>Liabilities.</i>	
Capital stock -----	\$137,800 00
Long term debt -----	45,000 00
Notes payable -----	1,400 00
Accounts payable -----	13,250 80
Accruals -----	402 74
Reserve for accrued depreciation -----	5,949 52
Deficit -----	12,333 10
Total liabilities -----	\$191,469 96

The company now plans to execute a deed of trust and to issue and sell at the face value thereof, \$100,000 of 7 per cent notes payable on or before five years after date for the following purposes:

To pay for a new boat -----	\$40,000 00
To pay for additional equipment -----	15,000 00
To pay indebtedness -----	45,000 00
Total -----	\$100,000 00

It is reported that the company's present equipment includes one Diesel-driven motor ship, 89 feet long and 28 feet wide and of a capacity of 79 tons net, and six trucks; two 4-ton Garfords, two 2½-ton Garfords and two 2-ton Fords. O. E. South, applicant's manager, testified that the present equipment is insufficient to meet the demands for transportation and that at times it is found necessary to refuse goods offered for transportation and at times, if possible, to charter another boat. To take care of this demand, applicant has entered into a contract for the construction, for approximately \$40,000, of a twin screw Diesel-driven motor ship 106 feet long and 32 feet wide and of a capacity of 135 tons net. The testimony indicates that the boat is now nearing completion and will be ready for service within a few weeks.

The company was unable to advise the Commission of the exact purposes for which it intends to use all of the \$15,000 of proceeds allocated to other equipment. It appears that about \$3,000 will be expended to build approximately 210 feet of additional wharf facilities and the remaining \$12,000 for trucks or other equipment as the need arises. The

order herein, while authorizing the issue of the notes in the amount requested, will provide that approximately \$12,000 of the proceeds may be expended only for such purposes as the Commission might hereafter authorize upon the filing of supplemental requests by the company for permission to use such proceeds.

The \$45,000 of indebtedness to be paid constitutes applicant's entire outstanding indebtedness, with the exception of current accounts payable. It appears that this indebtedness consists of 7 per cent 2-year notes due March 6, 1925, which were originally issued to pay for the boat now being used and other property and equipment of the company.

The record shows that those holding \$38,000 of the \$45,000 of notes now outstanding have agreed to exchange them at par, for notes covered by this application and that the company has arranged to sell \$7,000 of new notes to pay the holders of the remaining notes who are unwilling to convert them into new notes. No final arrangements have been made, however, for the sale of the remaining \$55,000 of the notes applied for in this matter. The record shows that applicant's stockholders will purchase such notes from time to time if called upon to do so. It is not the company's intention to issue the entire \$100,000 of notes at this time. In this connection it might be stated that the contract for the construction of the new boat provides for installment payments extending over a period of forty-four months.

Assuming, however, that the entire \$100,000 of notes were issued, applicant's interest requirements on that account would amount to \$7,000 a year. Financial statements filed by the company indicate that its operations have been conducted at a loss, that during 1924 there was a net loss of \$4,684.31, after providing for operating expenses, depreciation of \$5,949.52 and interest and other charges, and that the corporate deficit on December 31, 1924, was \$12,333.10. O. W. Whaley, applicant's secretary and treasurer, testified that in his opinion the company would be able to take care of its interest charges. His opinion is apparently based on the fact that during 1924 a portion of the business now operated was conducted by South Shore Drayage Company, a separate organization, that the entire business is now consolidated under one ownership and that the acquisition and use of the new boat will enable it to enlarge its operations. It is of record in this connection that during the first three months of 1925 operating revenues were \$20,333.07 and operating expenses, \$15,959.37, leaving net revenue of \$4,373.70 available for interest and other charges during the quarter-year period.

There has been filed in this proceeding a copy of applicant's proposed deed of trust which is in satisfactory form.

We believe that the application should be granted subject to the conditions of the following order:

ORDER.

South Shore Port Company, Inc., having applied to the Railroad Commission for permission to execute a deed of trust and to issue and sell \$100,000 of notes, a public hearing having been held before Examiner Geary, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that South Shore Port Company, Inc., be and it is hereby authorized to execute a deed of trust substantially in the same form as that filed in this proceeding, and to issue and sell, on or before May 31, 1926, at not less than the face value thereof plus accrued interest, \$100,000 of notes, payable on or before five years after date of issue with interest at not exceeding 7 per cent per annum.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

2. Applicant may use approximately \$88,000 of the proceeds to be received from the sale of the notes herein authorized for the following purposes:

a. To refund indebtedness	\$45,000 00
b. To finance the cost of the new boat.....	40,000 00
c. To pay for the additional wharf facilities.....	3,000 00
Total	<u>\$88,000 00</u>

The remaining proceeds and such portion of the \$88,000 not needed for the foregoing purposes may be expended only when authorized by the Commission in subsequent orders.

3. Applicant may deliver not exceeding \$45,000 of the notes herein authorized at par, in exchange for the like amount of notes outstanding.

4. Applicant shall keep such record of the issue, sale and delivery of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will become effective when applicant has paid the fee prescribed by the Public Utilities Act, which fee is \$100.

Dated at San Francisco, California, this fourteenth day of May, 1925.

DECISION No. 14925.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO ELECTRIC RAILWAY COMPANY FOR PERMISSION TO ABANDON SERVICE AND TO TAKE UP TRACKS ON STATE STREET BETWEEN BROADWAY AND IVY STREET IN THE CITY OF SAN DIEGO.

Application No. 10997.

Decided May 14, 1925.

SERVICE—ELECTRIC RAILWAY—ABANDONMENT.—San Diego Electric Railway Company authorized to suspend service and to abandon and remove tracks on State street, and to substitute motor coach service.

BY THE COMMISSION.

OPINION.

San Diego Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the abandonment of its street railway line on State street between Broadway and Ivy street in the city of San Diego, to remove its tracks and appurtenances now located on such street, to place the right of way in similar condition to that of the remaining portion of State street after the removal of the tracks, and to operate automobile bus service in lieu of the street car service herein proposed to be abandoned.

Applicant alleges that the tracks located on State street, between Broadway and Ivy street, are now in such condition that they must be immediately rebuilt if operation is to be continued thereover; that the cost of rebuilding the tracks in accordance with the applicant's present standard, including paving, is estimated at \$145,821; and that the traffic offering for movement over the State street line does not justify this expenditure.

Applicant alleges that it estimates the gross revenue to be derived from the operation of this line as approximately \$1,226.70 per month; that the fixed charges, depreciation, and interest on the money necessary for reconstruction will amount to \$1,336.69 per month which amount exceeds by \$110 per month the amount estimated as gross revenue, no consideration being given to the operating expenses and the wages of platform men alone being estimated as \$270 per month.

Applicant proposes, should the abandonment of service and removal of tracks be authorized, to reroute a bus line now operated on India street so that same would be operated on State street and the establishment of such substituted bus service in lieu of the rail service would provide better service for the patrons of the present rail service, as a ten and fifteen minute headway would be provided instead of the twelve and fifteen minute headway now available.

The matter of the proposed abandonment of car service on State street, San Diego, and the substitution of motor coach service by the

rerouting of an existing motor coach line has received considerable publicity in the city of San Diego and was the subject of investigation by the transportation committee of the common council, such committee recommending to the mayor and common council of the city of San Diego, under date March 2, 1925, that authorization be given for the proposed suspension of service, abandonment of tracks and substitution of motor coach service. The council of the city of San Diego on March 9, 1925, adopted the recommendation of its transportation committee and on April 6, 1925, passed a resolution permitting the abandonment of the street car line and the change in the routing of the motor coach line. A certified copy of Resolution No. 33749 of the common council of the city of San Diego as adopted by said council on April 6, 1925, is attached to and is made a part of the application herein.

Upon full consideration of the application as herein presented, we are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted in accordance with the provisions of the following form of order:

ORDER.

San Diego Electric Railway Company, a corporation, having filed application for authority to discontinue street car service on State street, San Diego, between Broadway and Ivy street; to abandon and remove its tracks and appurtenances located on said street; and to substitute motor coach service by rerouting an existing motor coach line to furnish service in lieu of the street car service formerly rendered; the Commission being now fully advised and of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted;

It is hereby ordered, that applicant, San Diego Electric Railway Company, a corporation, be and the same hereby is authorized to suspend its street car service as heretofore operated on State street, in the city of San Diego, between Broadway and Ivy street; to abandon and remove its tracks and appurtenances as thereon located; and to substitute motor coach service in lieu of the street car service as heretofore rendered by diverting the route of a motor coach line now operating on India street so that operation will hereafter be given from the intersection of E and State streets, thence northerly along State street to Ivy street, thence westerly along Ivy street to India street and thence northerly along the present route on India and other streets to the end of the motor coach route in old San Diego.

It is hereby further ordered, that this order shall not become effective until applicant shall have given five (5) days' notice to the traveling public by posting notices in its street cars and motor coaches now

operating on the lines herein proposed to be discontinued, abandoned or rerouted, a copy of such notice to be filed with the Railroad Commission.

Dated at San Francisco, California, this fourteenth day of May, 1925.

DECISION No. 14926.

IN THE MATTER OF THE APPLICATION OF LINDSAY HOME TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE CORPORATION NOTES TO THE AMOUNT OF EIGHT THOUSAND SEVEN HUNDRED DOLLARS.

Application No. 11023.

Decided May 14, 1925.

SECURITY ISSUE—NOTES.—Lindsay Home Telephone and Telegraph Company authorized to issue \$8,700 of unsecured promissory notes payable in three years, interest not exceeding 8 per cent per annum.

Charles H. Button, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing held before Examiner Fankhauser, the Railroad Commission is asked to make an order authorizing Lindsay Home Telephone and Telegraph Company to issue its promissory notes in the principal amount of \$8,700 payable on or before three years after date with interest at not exceeding 8 per cent per annum.

The company desires to issue its notes to refund outstanding indebtedness consisting of a \$2,700 8 per cent demand note in favor of First National Bank of Lindsay, a \$2,500 8 per cent demand note in favor of Cora E. Tallman and open account indebtedness of \$3,500 due Charles H. Button. The testimony herein indicates that the indebtedness to be refunded was incurred during the last three years to pay for additions and betterments. In this connection an examination of applicant's annual reports for 1922, 1923 and 1924 shows that during these years it reported its capital expenditures at \$21,898.83, which amount is segregated as follows:

Land and buildings.....	\$338 00
Central office equipment.....	1,604 38
Station equipment	6,095 96
Exchange lines	13,225 97
General equipment	634 52
	<hr/>
	\$21,898 83

In addition to the \$8,700 of indebtedness to be refunded, applicant reports outstanding on December 31, 1924, \$12,300 of first mortgage 6 per cent bonds, a \$10,000 3-year 7 per cent note due April 1, 1926, and

\$3,440.39 of open account indebtedness. The company's assets and liabilities are reported as follows:

<i>Assets.</i>	
Fixed capital -----	\$90,314 22
Cash -----	170 55
Accounts receivable -----	1,009 75
Special funds -----	1,262 43
Unamortized discount -----	416 50
Total assets -----	\$93,173 45
<i>Liabilities.</i>	
Capital stock -----	\$25,000 00
Funded debt -----	12,300 00
Notes payable -----	17,200 00
Accounts payable -----	3,440 39
Depreciation reserve -----	30,497 27
Surplus -----	4,735 79
Total liabilities -----	\$93,173 45

Among the accounts payable is an item of \$1,060.60 due Wm. Dougherty under a contract providing for the purchase of a lot and a building used for a central office. This amount is payable at the rate of \$40 a month, with interest at 7 per cent. Because the time for payment of the entire amount extends over a period of one year, we believe the indebtedness comes within the provisions of section 52 of the Public Utilities Act and that the execution of the contract should be authorized by the Commission.

ORDER.

Lindsay Home Telephone and Telegraph Company having applied to the Railroad Commission for permission to issue notes, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such notes is reasonably required by applicant;

It is hereby ordered, that Lindsay Home Telephone and Telegraph Company be and it is hereby authorized to issue its unsecured promissory notes in the principal amount of \$8,700 payable on or before three years from the date of this order, with interest at not exceeding 8 per cent per annum, for the purpose of refunding the indebtedness referred to in the foregoing opinion, and to execute a contract covering the payment of \$1,060.60 in monthly installments of \$40 each, with interest at 7 per cent per annum, as indicated in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. Applicant may, if it so desires, issue the notes herein authorized for a term of less than three years and may renew them from time to time provided that the combined terms of the notes originally issued and of those given in renewal thereof may not exceed three years from the date of this order.

2. Applicant shall keep such record of the issue, sale and delivery of the notes herein authorized, and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this fourteenth day of May, 1925.

DECISION No. 14927.

IN THE MATTER OF THE APPLICATION OF SAN CARLOS WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE EIGHTY-SIX (86) SHARES OF ITS CAPITAL STOCK.

Application No. 11036.

Decided May 14, 1925.

SECURITY ISSUE—STOCK.—San Carlos Water Company authorized to issue \$8,600 of common capital stock at par to Fred H. Drake in payment of indebtedness.

Dunne, Brobeck, Phleger and Harrison, by Herman Phleger, for Applicant.

BY THE COMMISSION.

OPINION.

In this application San Carlos Water Company asks permission to issue to Fred H. Drake, at par, eighty-six shares of its common capital stock of the aggregate par value of \$8,600, in full payment of indebtedness of like amount representing moneys advanced to the corporation and used by it for additions and betterments.

It appears that San Carlos Water Company was organized on or about December 7, 1921, with an authorized capital stock of \$50,000, divided into 500 shares of the par value of \$100 each, all common. By Decision No. 10934, dated September 2, 1922 (Vol. 22, Opinions and Orders of the Railroad Commission of California, page 258), the company was authorized to issue \$300 of its stock to its directors for qualifying purposes and to use the proceeds for working capital, and to issue \$22,500 of stock to Mercantile Trust Company in payment for a water distribution system used to supply water in and about the town of San Carlos, San Mateo County.

The record shows that of the \$22,800 of stock heretofore authorized to be issued by the Commission, \$22,600 is now held by Fred H. Drake. It also appears that the company is indebted to Fred H. Drake in the sum of \$8,600, which amount was advanced to the company as open account indebtedness during the period from January 5, 1923, to

June 3, 1924, and used for the purchase and installation of additions to applicant's system as follows:

- 3465 feet of standard 4-inch iron pipe.
- 900 feet of standard 2-inch iron pipe.
- 2160 feet of standard 1½-inch iron pipe.
- 665 feet of standard 1-inch iron pipe.
- 80—§ Empire meters.
- 2—50,000-gallon redwood tanks and labor of installing.

The application shows that Fred H. Drake has offered to cancel the indebtedness of \$8,600 due him in consideration of the issue to him of \$8,600 of the stock of applicant, which offer applicant has accepted, provided that the company is authorized to issue such stock.

ORDER.

San Carlos Water Company, having applied to the Railroad Commission for permission to issue \$8,600 of stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Carlos Water Company be and it is hereby authorized to issue, on or before September 1, 1925, \$8,600 of its common capital stock at par, to Fred H. Drake in full payment of the indebtedness of like amount to which reference is made in the foregoing opinion, provided that applicant keep such record of the issue and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file within thirty days after such issue and delivery, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order, and provided further that the authority herein granted shall become effective as of the date hereof.

Dated at San Francisco, California, this fourteenth day of May, 1925.

DECISION No. 14932.

CALIFORNIA FRUIT GROWERS EXCHANGE

vs.

LOS ANGELES AND SALT LAKE RAILROAD COMPANY, AND SOUTHERN
PACIFIC COMPANY.

Case No. 2106.

Decided May 14, 1925.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Upon further consideration of the record in the above entitled proceeding and of defendants' communications for a modification of the order entered herein:

It is ordered, that the fifth and sixth paragraphs of the opinion in Decision No. 14877, entered herein on May 1, 1925, be and they are hereby modified and amended to read as follows:

Defendants admit complainant's allegations that the rates complained of were unjustly and unduly preferential. Therefore, under the circumstances, a public hearing will not be necessary.

After due consideration we find that complainant made shipments as described in statements attached to and made a part of the complaint, paid and bore the charges thereon, and that upon carriers' admission that the amount collected was unjustly discriminatory and unduly preferential, reparation should be awarded.

It is further ordered, that the last line of the order in Decision No. 14877 be changed to read "as reparation account unjust and unduly preferential rates."

Dated at San Francisco, California, this fourteenth day of May, 1925.

DECISION No. 14938.

IN THE MATTER OF THE APPLICATION OF BEVERLY GIBSON, M. B. GIBSON, GEO. H. WOODS, W. M. SANFORD, C. R. SPICKARD, AND C. J. McFALL, DOING BUSINESS UNDER THE FICTITIOUS NAME OF CALIFORNIA-NEVADA STAGES, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO PASSENGER STAGE SERVICE BETWEEN SAN FRANCISCO AND THE EAST-ERLY BOUNDARY OF CALIFORNIA EN ROUTE TO RENO, NEVADA.

Application No. 9916.

IN THE MATTER OF THE APPLICATION OF JOSEPH REITFELLER, SAM ARONSON AND H. E. BOSWELL, CARRYING ON BUSINESS UNDER THE DESIGNATION OF RENO-SACRAMENTO STAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A PASSENGER STAGE SERVICE BETWEEN SACRAMENTO, CALIFORNIA, AND THE STATE LINE DIVIDING NEVADA AND CALIFORNIA, AT A POINT BETWEEN FLORISTON AND VERDI.

Application No. 9943.

IN THE MATTER OF THE APPLICATION OF SIERRA TRANSIT CO., A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH AN AUTOMOBILE STAGE LINE FOR THE TRANSPORTATION OF PASSENGERS AND EXPRESS BETWEEN AUBURN, CALIFORNIA, AND COLFAX, CALIFORNIA, AND INTERMEDIATE POINTS IN CONJUNCTION WITH AND AS A PART OF THE OPERATIVE RIGHTS OF SIERRA TRANSIT COMPANY, A CORPORATION, TO TRANSPORT PASSENGERS AND EXPRESS BETWEEN SACRAMENTO AND NEVADA CITY, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 9954.

Decided May 15, 1925.

CERTIFICATE—AUTO STAGE.—Reno-Sacramento Stage Company granted certificate to operate auto stage and express service between Sacramento and Nevada state line with limit of 40 pounds per express shipment. Applications of California-Nevada Stages and Sierra Transit Company for similar authorization, denied.

Sanborn, Roehl and Smith, by *A. B. Roehl*, for California-Nevada Stages;
Declin and Brookman, by *Douglas Brookman*; *James D. Meredith* and *Geo. J. Raymond*, for Reno-Sacramento Stage Company;
Harry A. Encell and *James A. Miller*, for Sierra Transit Company;
Edward Stern, for American Railway Express Company, Protestant;
F. W. Mielke and *C. E. Spear*, for Southern Pacific Company, Protestant;
H. A. Mitchell, for San Francisco-Sacramento Railroad Company;
Sam Aronson, for Golden Eagle Stage Line;
C. R. Spickard, for Sierra Transit Company, Protestant

BY THE COMMISSION.

OPINION.

Beverly Gibson, M. B. Gibson, Geo. H. Woods, W. M. Sanford, C. R. Spickard, and C. J. McFall, doing business under the fictitious name of California-Nevada Stages, in accordance with their amended application, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile stage line as a common carrier of passengers and express between Sacramento and the eastern boundary line of California en route to Reno, Nevada, serving as intermediate points Gold Run, Alta, Crystal Springs, Cisco, Emigrant, Soda Springs, Summit, Donner Lake, Truckee, Hobart Mills and State Line, provided no passenger or express service shall be given between Sacramento and Auburn.

Applicant proposes to charge rates, and to operate on a time schedule in accordance with amended Exhibits "A" and "B," attached to said application, and to use the equipment described in Exhibit "C."

Joseph Reitfeller, Sam Aronson and H. E. Boswell, transacting business under the name of Reno-Sacramento Stage Line, in accordance with their amended application, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile stage line as a common carrier of passengers and express between Sacramento, California, and a point on the Lincoln Highway or Overland main highway, at a point where the State Line dividing the state of Nevada from the State of California intersects between the town of Floriston, California, and Verdi, Nevada, serving as intermediate points Bowman, Clipper Gap Junction, Applegate, Weimar Sanitarium, Colfax, Cape Horn, Gold Run, Dutch Flat Junction, Alta, Crystal Springs, Baxter Camp, Emigrant Gap, Crystal Lake, Cisco Camp, Tamarack Ranger Station, Soda Springs Station, Summit, Donner Lake, Truckee, Hobart Junction, Boca Junction, State Line and intermediate points; provided, however, that no

passenger or express service shall be rendered between Sacramento and Auburn or points intermediate between Sacramento and Auburn.

Applicants propose to charge rates and to operate on a time schedule in accordance with amended Exhibits "A" and "B" attached to said application and to use the equipment described in Exhibit "C" attached to said application. Applicants propose to operate Schedules No. 1, No. 2, No. 5 and No. 6, proposed in said Exhibit "B" daily throughout the year from Sacramento to Colfax, and also propose to operate Schedules No. 1, No. 2, No. 3 and No. 4 from Sacramento to the said State Line throughout that portion of each year when the highway is passable to automobile traffic, namely, from about the first day of May to the first day of November, or thereabouts, of each year. Applicants also request the right to change the routing from Truckee to the State Line from the present highway to the new highway now in the course of construction when said new highway is open for traffic.

The Lincoln Highway, it appears, when completed will go through Truckee river canyon by way of Boca Camp and Floriston and the proposed route by way of Hobart Mills will only be temporary.

Sierra Transit Company, a corporation, in accordance with its amended application, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile stage line as a common carrier of passengers and express between Auburn, California, and Colfax, California, and serving Bowman, Applegate, Weimar Sanitarium and Colfax, in conjunction with and as a part of its present authorized operative rights to transport passengers and express between Sacramento and Nevada City, California.

Applicant proposes to charge rates and to operate on a time schedule in accordance with Exhibit "B" and amended Exhibit "C" attached to said application and to use the equipment described in Exhibit "B."

The Southern Pacific Company and the American Railway Express Company protested the granting of each and all of said applications. Applicants in Application No. 9916 and Application No. 9954 protested the granting of Application No. 9943. Applicants in Application No. 9943 protested the granting of Application No. 9916 and Application No. 9954.

Public hearings on said applications were conducted by Examiner Satterwhite at Sacramento, Colfax and Truckee, the matters were submitted and are now ready for decision. All of said applications were consolidated for the purpose of receiving evidence and for decision.

The record shows that the territory proposed to be served embraces one of the most attractive and extensive mountain resort sections in California, which extends easterly from Auburn to Truckee, and

during the period of each year from about June first to November first is visited by thousands of people for rest, recreation and health.

It appears without contradiction in the record that during the summer season of 1923 about 60,000 people consisting of campers, tourists and others visited the numerous resorts along the proposed stage route. All these resorts vary in size and character, both as to accommodations and features of attraction.

Many witnesses, called in support of all of said applications, testified to the demand and need for an auto stage passenger and express service through this mountain resort territory. The rapid and large increase of campers and outing parties and tourists going into and through this recreation territory has been very marked within the last few summer seasons and all indications point to a very large increase in future travel to these numerous resorts.

Camp Cisco and Donner Lake Camp, the two largest resorts on the proposed stage route, accommodated about 25,000 people during the season of 1924. The owners of these two large resorts and several other resort and hotel owners appeared at the hearing and endorsed the establishment of a stage service through this territory. The evidence shows that the distance from the rail stations of the protesting rail carriers to most of these resorts vary from one-half up to six miles and that passengers are compelled to walk these various distances or are carried in private or public conveyances.

The Lincoln Highway, over which the stage line would travel, passes directly through all of these resorts and the record shows that such a direct service would eliminate many delays, much dissatisfaction, inconvenience and hardships heretofore occurring in connection with the passenger and express traffic to and from these resorts over the rail service. While it is true that a majority of the people who visit these camps and resorts use their own automobiles, the evidence indicates that thousands of them come in automobiles not their own or use the rail service.

The record further shows that large numbers of laborers are employed in the mines and various construction camps in this mountain territory who heretofore have been carried in private automobiles under special contract and that the proposed stage service would afford a direct and expeditious means of transportation for these men.

All applicants offered considerable testimony in reference to the unsatisfactory train schedules of the Southern Pacific Company, protestant. It appears that there are five eastbound trains leaving Sacramento daily, all of which originate at San Francisco, and but one of these trains passes through this resort territory in the daytime. This daylight train eastbound is known as train No. 24 and during the recent summer seasons has been constantly late for periods of from

fifteen minutes to three hours, due in part to traffic conditions and new road construction. Only one of the four westbound trains is a daylight train from Truckee and the evidence in behalf of all applicants shows that the arrival and departing time of the night trains in both directions is both inconvenient and unsatisfactory. While it appears that the people who visit this resort territory come from all sections of the state and other states, the great majority come from Sacramento, San Jose, Oakland, San Francisco and other bay cities.

Applicants in Application No. 9916 have proposed an express service with a limitation of a maximum weight of 100 pounds upon each express package or parcel and propose to do a general express business within this specified weight and to operate all necessary trucks in addition to their passenger stages to transport all property offered.

Applicants in Application No. 9943 have proposed an express service with a limitation of 40 pounds upon each shipment and intend to carry such shipments exclusively upon its passenger stages and to make its express service incidental to its passenger business.

The record contains considerable evidence, both oral and documentary, offered by all applicants and protestants in reference to the character and quantity of goods, wares and merchandise heretofore shipped into these resorts and camps between Auburn and Truckee inclusive during the open season. Sacramento is the chief buying and shipping point. The great bulk of these shipments consists of groceries, bread, meats, miscellaneous merchandise, candies, fruits, vegetables and laundry. The great majority of the smaller shipments under 50 pounds, with an average weight far below this amount, has been shipped to the 8000 or 10,000 campers and tourists at points along the proposed route.

The resort owners who conduct auto camps, service stations, stores, hotels and other camping accommodations along the line are much heavier shippers than the campers from Sacramento and other points and their daily individual shipments generally exceed 50 pounds and consist of supplies and merchandise falling over and under 100 pounds in weight and the record indicates that the aggregate daily weight of shipments to the resort owners would amount to and often exceed three tons daily. American Railway Express Company, protestant, introduced in evidence several exhibits, one a tonnage statement which shows shipments made during three weekly periods, namely: April 24th to April 30th, July 1st to July 7th, December 8th to December 15th in the year 1923. The summer season is the peak period in this resort territory proposed to be served and it appears by a careful study of the above tonnage statement that the average weight per day of express shipments carried by the American Railway Express Company in the summer season was about 5500 pounds from and to Sacramento and

from and to Auburn between towns in California along the proposed stage route and also that about one-third of these express shipments weighed over 100 pounds for which no stage or truck service is proposed by applicants between Auburn and the State Line.

The Commission is not unmindful of the character of mountain highway to be traversed in the operation of a stage service to these various resorts and it does not look with favor upon the taxing of passenger cars beyond their carrying capacity, with shipments exceeding 40 pounds unless the facts and circumstances of the public necessity in a particular case fully justify it. The evidence indicates in these proceedings that the great majority of parcels and excess baggage which will be shipped in the summer season to these campers will fall below 50 pounds and seldom reach or exceed 40 pounds in weight.

We are of the opinion, after full consideration of all the evidence and exhibits herein, and hereby find as a fact that public convenience and necessity require the establishment of a passenger and express service between Sacramento and the State Line via Truckee over the Lincoln Highway, serving only the intermediate points between Auburn and said State Line.

We further are of the opinion and hereby find as a fact that public necessity and convenience require the granting of a certificate authorizing the transportation of packages and express matter upon said passenger stages only when such shipments do not exceed a weight of 40 pounds for each package or parcel.

We are satisfied, from the evidence herein, that only one stage line is necessary to meet the demands of passenger and express traffic in the territory sought to be served and we are therefore confronted with the necessity of determining which of said applicants is entitled to a certificate of public convenience and necessity.

The Commission gives little or no consideration to the date of the filing of an application in reaching a decision after formal hearings upon two or more applications wherein the respective applicants seek authority to operate a stage service over similar or identical routes, but a careful review is given not only to the time, character and nature of the investigations made and pursued as to the necessity of a proposed stage service, but also to the experience and financial ability and resources of the respective applicants.

H. H. Stone and Joseph Reiffeller, original applicants in Application No. 9943, filed their application with this Commission on April 4, 1924, and the record shows that they began their investigations into the need of the stage service proposed in the summer of 1923 and that such investigations were continuous, diligent and sustained until their said application was filed. These investigations consisted of many inquiries and innumerable conversations and interviews with various

persons in all walks of life from the laborer in the construction camps, whom they were transporting into this territory, and well-known citizens and business men in the communities and resorts from Auburn to Truckee. Endorsements also were sought prior to the filing of their applications, both by written and personal applications, from the chambers of commerce of Truckee, Colfax and Sacramento. The testimony as to the financial ability and resources of said applicants in this application, as amended, shows definitely that \$95,000 in cash is immediately available for investment in the proposed stage service, together with any further necessary credit from certain banking institutions.

The applicants in Application No. 9916 offered evidence to the effect that they began their investigations four years before their amended application was filed with the Commission on April 1, 1924. The record shows that these investigations were not continuous or sustained and were made almost wholly by C. R. Spickard, a coapplicant, appearing as such for the first time in said amended application filed on April 1, 1924. His investigations made in behalf of petitioners in Applications No. 9916 and No. 9954, consisted, in the year 1920, of a conversation with two resort owners at Lake Tahoe, and in the year 1921 a conversation with the resort owner at Crystal Springs, and in 1923 a conversation with the owner of Donner Lake resort. No investigation was made in 1922, and with the exception of a special trip in 1921 nothing more was specially done until some time in 1924, prior to the filing of their application, when further investigation was taken up.

In the original Application No. 9916, filed March 26, 1924, whatever information may have been obtained through investigation, the Commission notes that only four of the present applicants in said Application No. 9916 were joined therein and they neither sought nor proposed any stage or express service to and from Sacramento as a terminal or intermediate point, but did propose a service to Bowman, Applegate, Weimar and Colfax as intermediate points on their proposed service from San Francisco to the State Line.

In the first amended Application No. 9916, filed April 1, 1924, Sacramento was not as yet proposed as either a terminal or an intermediate point, and the proposed intermediate service to Bowman, Applegate, Weimar and Colfax was abandoned. During the hearing of these proceedings, these applicants on June 3, 1924, again amended their application, abandoning San Francisco as a terminal and proposing for the first time Sacramento as their terminal.

These applicants offered no specific evidence as to their available cash or credit resources, but presented testimony generally to the effect that said applicants were able, willing and ready to finance their proposed stage service.

The record indicates, in so far as the matter of experience and ability is concerned in the operation of the passenger and express service proposed in these proceedings, that all of the applicants in the respective applications are men of sufficient experience to conduct the stage service herein applied for.

After a very careful consideration of all the evidence in these proceedings, we have concluded and hereby find as a fact that said applicants Joseph Reitfeller, Sam Aronson and H. E. Boswell, doing business under the name of Reno-Sacramento Stage Company, are entitled to a certificate of public convenience and necessity to operate the passenger and express service proposed in their Application No. 9943 and that their application should be granted, and that said Application No. 9916 and said Application No. 9954 should be denied.

ORDER.

Public hearings having been held on the above entitled applications, the matters having been duly submitted, the Commission being now fully advised and basing its order on the conclusions and findings of fact as appearing in the opinion which precedes this order:

The Railroad Commission hereby declares that public convenience and necessity require the operation by Joseph Reitfeller, Sam Aronson and H. E. Boswell, copartners doing business under the name of Reno-Sacramento Stage Company, of an automobile stage line as a common carrier of passengers and express between Sacramento, California, and a point on the Lincoln or Overland main highway, at a point where the State Line dividing the State of Nevada from the State of California, intersects between the town of Floriston, California, and Verdi, Nevada, serving as intermediate points Bowman, Clipper Gap Junction, Applegate, Weimar Sanitarium, Colfax, Cape Horn, Gold Run, Dutch Flat Junction, Alta, Crystal Springs, Baxter Camp, Emigrant Gap, Crystal Lake, Cisco Camp, Tamarack Ranger Station, Soda Springs Station, Summit, Donner Lake, Truckee, Hobart Junction, Boca Junction, State Line and intermediate points, provided that no passenger or express service shall be rendered between Sacramento and Auburn or points intermediate between Sacramento and Auburn, and provided further, that no express package shall be carried weighing in excess of 40 pounds, and that no authority is hereby granted for the establishment of a general express service for the carriage of any express matter on any other equipment than that to be regularly used by applicants in their regular passenger service and then only when same can be handled without inconvenience to passengers.

It is hereby ordered, that a certificate of public convenience and necessity for the foregoing passenger and express service be and the same is hereby granted with the privilege to route stages temporarily

from Truckee to said State Line by way of Hobart Mills until said Lincoln highway is fully constructed and open for public travel, and subject to the following conditions:

1. Applicants shall file their written acceptance of the certificates herein granted within a period of not to exceed thirty (30) days from date hereof; and shall file, in duplicate, tariff of rates, fares, rules and regulations, and time schedules within a period of not to exceed thirty-five (35) days from date hereof, such tariffs of rates and fares, rules and regulations, and time schedules to be identical with those attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed forty (40) days from the date hereof; unless the time for commencement of operation hereunder is hereafter extended by a supplemental order of this Commission.

2. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated, nor service discontinued unless the written consent of the Railroad Commission to such assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.

3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to and approved by this Commission.

For all other purposes, other than hereinabove specified, the effective date of this order shall be twenty (20) days from the date hereof.

It is hereby ordered, that said Application No. 9916 be and the same is hereby denied.

It is hereby ordered, that Application No. 9954 is hereby denied.

Dated at San Francisco, California, this fifteenth day of May, 1925.

DECISION No. 14939.

IN THE MATTER OF THE APPLICATION OF J. W. RITZMAN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE FREIGHT SERVICE FOR THE HANDLING OF COTTON BETWEEN WASCO, SHAFTER, CORCORAN, WEED PATCH, McFARLAND, DELANO, MAGUNDEN, LAMONT, ARVIN, FRESNO, FIREBAUGH, MADERA AND MENDOTA AND LOS ANGELES AND LOS ANGELES HARBOR POINTS.

Application No. 10728.

IN THE MATTER OF THE APPLICATION OF J. W. RITZMAN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE FREIGHT SERVICE FOR THE HANDLING OF COTTON BETWEEN IMPERIAL AND COACHELLA VALLEY POINTS AND LOS ANGELES HARBOR POINTS.

Application No. 10729.

IN THE MATTER OF THE APPLICATION OF WM. MAGEE FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO

OPERATE AUTO TRUCK FOR FREIGHT SERVICE FOR TRANSPORTING COTTON, IN BALES ONLY, FROM IMPERIAL VALLEY POINTS AND SAN JOAQUIN VALLEY POINTS TO LOS ANGELES AND LOS ANGELES HARBOR.

Application No. 10738.

IN THE MATTER OF THE APPLICATION OF JEROME F. LYON, OPERATING UNDER THE FICTITIOUS NAME OF JERRY LYON TRUCK COMPANY, FOR CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE HIM TO OPERATE A MOTOR TRUCK SERVICE BETWEEN IMPERIAL VALLEY POINTS AND LOS ANGELES, WILMINGTON AND SAN PEDRO, AND BETWEEN SAN JOAQUIN VALLEY POINTS AND LOS ANGELES, WILMINGTON AND SAN PEDRO.

Application No. 10881.

IN THE MATTER OF THE APPLICATION OF WALTER WILLHOUR FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO TRUCK FOR FREIGHT SERVICE IN TRANSPORTING COTTON, COTTON SEED, COTTON PRODUCTS AND COTTON GIN SUPPLIES FROM IMPERIAL VALLEY POINTS AND SAN JOAQUIN VALLEY POINTS TO LOS ANGELES AND LOS ANGELES HARBOR, AND BETWEEN POINTS IN SAN JOAQUIN VALLEY.

Application No. 10891.

Decided May 15, 1925.

CERTIFICATE—AUTO TRUCK.—Certificate granted to Walter Willhour to operate freight service for the transportation of cotton and cotton products, and cotton gin supplies between Merced and Los Angeles, and Los Angeles harbor, via main traveled roads to and from state highway. Jeroms F. Lyon granted certificate, similar permit, via state highway between Calexico and Los Angeles, and Los Angeles harbor.

Myron Westover, for Jerome F. Lyon, Applicant.

Richard T. Eddy, for J. W. Ritzman, Applicant.

Chas. W. Lyon and Clay Robbins, for Wm. Magee, Applicant.

William C. Mullendore, for Walter Willhour, Applicant.

Devlin and Brookman, by *Douglas Brookman*, for Imperial Valley-Los Angeles Express, Hodge Transportation System, San Joaquin Valley Transportation Company and Pioneer Truck and Transfer Company of El Centro, Protestants.

F. W. Mielke and L. C. Zimmerman, for Southern Pacific Company, Protestant.

E. T. Lucey and L. W. Butterfield, for Atchison, Topeka and Santa Fe Railway Company, Protestant.

George Clark, for Los Angeles and Bakersfield Fast Freight and Los Angeles and West Side Transportation Company, Protestants.

BY THE COMMISSION.

OPINION.

Applicants in the above entitled applications seek certificates of public convenience and necessity to transport cotton in bales and gin by-products and gin supplies between points of production in the San Joaquin, Imperial and Coachella Valleys, and Los Angeles and Los Angeles harbor. Applicants Ritzman, Magee and Willhour confine their applications to the transportation, one way only, of cotton, cotton seed, cotton products and cotton gin supplies. Applicant Lyon proposes the transportation of cotton alone without back haul to the Coachella and

Imperial valleys, but seeks a return movement of oil well equipment and supplies from Los Angeles and Los Angeles harbor to San Joaquin Valley points.

Public hearings herein were conducted by Examiner Williams at Los Angeles.

Cotton is consigned from producing points to Los Angeles harbor for water shipment and only about 10 per cent of the entire amount transported is destined to Los Angeles city or points other than the harbor. For this reason the following condensed table of existing rates shows automobile rates, as against rail rates, to the harbor only:

Rates in cents per hundred pounds from initial points to Los Angeles harbor.

	Lyon (a)	Magee (b)	Willhour	Ritzman (c)	Railroad
Imperial Valley—					
Coachella -----	45	45	45	45	62
Westmoreland } -----	62	62	62	45	62
Calipatria } -----					
Brawley } -----	62	62	62	65	62
El Centro } -----					
Calexico -----	65	65	65	65	62
Seeley -----	65	62	62	65	62
San Joaquin Valley—					
Bakersfield -----	65	--	65	65	62
Firebaugh -----	85	--	85	75	79
Mendota -----	85	--	85	75	78
Porterville -----	75	--	75	--	69½
Weed Patch -----	65	65	65	65	--
Shafter-Wasco -----	65	65	65	65	--
McFarland } -----	65	65	65	65	62
Delano } -----					
Corcoran -----	75	65	75	65	--
Fresno -----	75	75	75	75	73½
Madera -----	85	75	85	75	76
Merced -----	95	--	95	--	94½

NOTE.—Rail rates to Los Angeles city are the same as offered by applicants, or a few cents less, not exceeding 5 cents per 100 pounds.

(a) Excluding territory between 5 and 25 miles outside the city limits of Bakersfield, except a zone 5 miles wide on each side of the highway. Also a rate of 30 cents for movements between Bakersfield, Weed Patch, Arvin, Lamont, Magunden, and Fresno, Mendota and Firebaugh. Also a rate of 20 cents between Corcoran and Fresno or Bakersfield. No minimum quantity or rate.

(b) Applicant adds \$1 per ton for harbor delivery.

(c) Minimum charge, Imperial Valley, \$100.

Minimum charge, Coachella Valley, \$70.

Minimum load, 10 tons.

The cotton industry in California during the last three years has shifted to transportation by water from Los Angeles harbor. During this period Los Angeles has become a cotton buying and trading center, and a Cotton Exchange, composed of fifteen agencies and firms, has been established.

According to the testimony of Charles A. Provost, vice president of the Los Angeles Cotton Exchange, the cotton buyers of this Exchange control the movement of shipping, and 60 per cent of the movement from Imperial Valley and 75 per cent from the San Joaquin Valley to

Los Angeles harbor has been conducted by truck transportation. The cotton season extends over the entire year, with the peak movement extending from October to January and the minimum from the middle of June to August. According to this witness, the approximate production in California in the last four seasons has been as follows:

	Coachella and Imperial Valleys	San Joaquin Valley
1920-21, bales -----	130,000	-----
1922-23, bales -----	100,000	-----
1923-24, bales -----	110,000	33,000
1924-25, bales -----	115,000	40,000

According to the testimony of Mr. Provost, the cotton industry in California began in 1907 with a small planting in the Imperial Valley, spread to the Coachella Valley for a small acreage, and several years later was begun on a fairly large scale in the San Joaquin Valley. The witness said the season of 1925-26 promises a larger acreage of planting, and over a wider area, than in any previous year. The establishment of reduced ocean freight rates from Los Angeles harbor, together with more competitive market conditions, led the cotton brokers of Los Angeles to adopt truck transportation. When the Exchange Transportation Committee learned that the movement as conducted was not in compliance with law, the truckmen were advised to seek legal authority for their operations.

Mr. Provost explained that it is necessary, in filling orders, to select different grades of cotton, often at different gins, and that the use of a truck facilitates the assembling of cargoes, for the reason that trucks may go to the gin yards, select the qualities required, load the cotton on the trucks and trailers and transport it without further handling to the compressor at the Los Angeles harbor. It was the opinion of Mr. Provost that the use of trucks provides a better and faster service for through movement, reduces capital and interest charges on the commodity in transit, as well as charges for storage and insurance, and, in addition, permits close connection with boats, which transportation by rail could not provide, sometimes due to track congestion.

The movement of cotton is conducted with truck and trailer in approximately 10-ton lots. Assuming parity of rates and time in transportation from initial points to the harbor, the witness said the elimination of handling charges which results from truck operation would make the truck operation of economic benefit to shippers. In addition, the maximum truck load permits the concentration of mixed loads at tidewater, convenient for shipment, while rail methods require the concentration of a carload at each gin point, which is not practical in the mixed business done by the brokers and shippers. This ability to concentrate mixed movements at Los Angeles harbor has made Los Angeles an important cotton-shipping point and the water movement has been

steadily increasing. Of this movement by water, 60 per cent is consigned to Europe—usually to the Liverpool market—and 40 per cent to Atlantic ports.

The witness explained that a proportion of the shipments are emergency rush movements to spinning mills, and that the largest single movement of which the Exchange has record, was one of 6700 bales from the San Joaquin Valley. The bales range in value from \$125 to \$135, thus creating a cargo of considerable value and requiring competent and reliable operators in the movements. The witness testified that, so far as he knew, there had been no serious loss or injury to cargo either by truck or by rail transportation. It was the experience of the witness that cotton may be moved from the initial point to the harbor in from 16 to 24 hours by truck, while it requires from three to five days by rail. The witness could not recall any forfeiture of ship cargo-space due to failure of rail carriers to deliver in time for boat connection.

As to the truck rates paid, witness testified that the trade had paid approximately 65 cents from Calexico, 62 cents from other Imperial Valley points, 45 to 48 cents from Coachella Valley points, and 65 to 75 cents from San Joaquin Valley points, the lower price being from points south of Delano and the higher price from points north.

After the cotton has been picked it is transported to the cotton gins, where it is cleaned and graded according to staple, and the by-products (cottonseed cakes, cottonseed oil, cottonseed meal, and lint, or waste from the gin) are removed. The gin press results in bales of approximately 480 to 500 pounds in weight. The ginned cotton may then be delivered to the compressor, which reduces by compression the volume of the bale so that a volume of $16\frac{1}{2}$ pounds to the cubic foot is increased to $22\frac{1}{2}$ pounds to the cubic foot.

The only compressor in the Imperial Valley is at Calexico. At the San Pedro waterfront, Los Angeles harbor, another compressor is maintained, and the testimony indicates that other compressors are to be built at Bakersfield and Fresno, which are expected to be available for the 1925-1926 crop.

The movement from all points by truck has been almost invariably of uncompressed cotton, and a reason for this has been a differential of seven cents favoring truck as against rail rates. Cotton to be compressed in the Imperial Valley must first be transported to Calexico, the southernmost point of the entire district, except that cotton which is produced in the immediate vicinity of Calexico and ginned there, or that which is imported from the Mexican side of the border for compression. It is the policy of the cotton trade not to transport cotton south to Calexico for compression and then return it, compressed, to the harbor, but to make every load move by the shortest distance to the harbor, where compression is available at practically the same rate

as at Calexico. The following comparison of rates between Calexico and Los Angeles harbor shows the rate difference on uncompressed cotton:

	Rail	Truck
Loading -----	\$0 10	-----
Transportation rate -----	62	\$0 65
Handling at harbor compressor -----	97	07
Compression -----	20	20
Switching -----	02	02
Wharfage handling -----	035	035
	<hr/> \$1 045	<hr/> \$0 975

NOTE.—At the proposed truck rate of 45 cents from Calipatria and points north, the truck rate would be reduced to 77½ cents. Coachella production in 1924-25 amounted to about 4000 bales.

Other witnesses introduced by applicants to testify as to convenience and necessity were L. S. Atkinson of Atkinson and Company, A. H. Lamberth of Anderson-Clayton Company, and C. C. Selden, agent for George H. McFadden, all cotton shippers. Their testimony was substantially the same as that of Mr. Provost.

The granting of the applications herein was protested by Southern Pacific Company as to operations in the Imperial and Coachella valleys and by the Southern Pacific and Atchison, Topeka and Santa Fe Railway companies as to San Joaquin Valley operations.

No testimony was introduced by these protestants in refutation of the fact, as established by applicants, that for the past three years the great bulk of the uncompressed cotton from these regions has been transported to Los Angeles and Los Angeles harbor by truck.

Exhibit No. 1 filed by protestant Southern Pacific Company, showing the production of cotton in the Imperial Valley and its rail movement to Los Angeles harbor for the seasons 1920 to 1924, inclusive, indicates that in the season of 1920-21, out of a total production (estimated) of 100,047 bales, 40,248 bales of compressed and 35,109 bales of uncompressed cotton were transported to the harbor by rail. During the season of 1924-25, an estimated production of 94,000 bales resulted in a rail movement to Los Angeles harbor of 9696 bales of compressed cotton and none uncompressed. It was the estimate of this carrier that there had been transported to the harbor by truck, during the 1924-25 season, 19,097 bales. A reasonable deduction from the exhibit seems to be that the shipment of compressed cotton is the only movement of cotton by rail from that valley to Los Angeles harbor, and that the claims of applicants and shippers in this respect are correct. It is to be noted, however, that there has been an increase in the last five years in the eastbound rail movement, reaching a peak of 80,946 bales in the season of 1923-24, as against 28,000 bales in 1921-22. In the season of 1924-25, however, the eastbound rail shipments amounted to but slightly

in excess of 48,000 bales. In other words, there has been an increase in rail shipments east, but a tremendous decrease in shipments by rail from the Imperial Valley to Los Angeles harbor. This protestant maintains a uniform carload rate of 62 cents per 100 pounds from any point in the Imperial Valley between Calexico and Indio and the harbor, the distance varying from 250 to 153 miles. From the San Joaquin Valley the carload rates range from 62 cents from Magunden, a distance of 189 miles from Los Angeles harbor, to 94½ cents from Merced, a distance of 355 miles. All the rates quoted are based upon a minimum of 10 tons.

The rates of applicants as to all points in the Imperial Valley, upon the same minimum, are higher than those of protestant Southern Pacific Company, but are 17 cents lower as to all points in the Coachella Valley. From the San Joaquin Valley points the rates proposed by applicants are the same or slightly higher than the rates of protestant Southern Pacific Company for all points to and including Fresno, but for points north of Fresno they are lower.

Protestant Southern Pacific Company, through the testimony of A. M. Levy, chief clerk of the Freight Traffic Department and particularly in charge of cotton transportation between the Imperial Valley and Los Angeles harbor, testified that compressed cotton from Calexico is delivered to the shipper at Los Angeles harbor at a rate of 90½ cents per 100 pounds, while uncompressed cotton is delivered at a rate of \$1.04½ per 100 pounds. In general, Mr. Levy's testimony corroborated the testimony already introduced as to the division of these rates between transportation charges and handling and compression charges. For the convenience of shippers, through bills of lading on compressed cotton are issued at Calexico and delivered to consignees ahead of actual compression. Witness further testified that his records showed that no Southern Pacific train had missed a boat connection with cotton since 1920. He testified also that all the gins in the Imperial Valley, with the exception of two, are adjacent to the railroad, and that in January, 1924, the railroad issued a special order with a view to expediting shipments of cotton to the harbor. Witness produced exhibits as to Imperial Valley transportation but not as to San Joaquin Valley, there being few rail shipments from that region.

Howard P. Hughes, trainmaster of protestant Southern Pacific Company, testified that the schedule carrying cotton (as well as other freight) leaves Imperial Valley each evening, reaching Los Angeles the following afternoon, and is delivered at San Pedro (Los Angeles harbor) the next morning. Similar service from the San Joaquin Valley leaves Fresno at 1.50 p.m., reaching Bakersfield at 10.20 p.m. and San Pedro the following morning. The time given is net after delivery of cotton to cars.

Protestant Southern Pacific Company also produced as a witness A. G. Schmitt of Fresno, traveling freight and passenger agent for the San Joaquin Valley division, who testified as to the location of the gins and oil mills in that region. Witness testified that of 21 gins in the San Joaquin Valley, 12 are located on the railroad and 9 are located at an average distance of five miles therefrom, the most distant gins (at Weed Patch and Buena Vista Lake) being 10 miles from the railroad, and the nearest, at Corcoran, being approximately 1200 feet from the track. Oil mills are located at Bakersfield and Fresno, both on the railroad, and a third oil mill is being constructed at Chowchilla, also on the railroad. Witness testified that the approximate annual production of cotton in the San Joaquin Valley was 33,000 bales, of which approximately 9000 bales moved by rail, and that of this movement 6000 bales were shipped to eastern points.

From the testimony presented by applicants and protestants herein it seems clear that the cotton industry prefers to use truck methods in delivering the ginned product uncompressed at Los Angeles harbor for compression and water shipment. The testimony is overwhelming that this situation has been developing, particularly in the past three years, and that protestant carriers have not been able to retain the shipment of cotton by rail. The testimony is positive that during the last season all of the uncompressed cotton in the Imperial Valley has moved by truck, and that approximately 22,000 to 25,000 bales, out of a total of 33,000 bales produced, have been moved by truck from the San Joaquin Valley.

The applications before us represent an effort on the part of the Cotton Exchange to bring the transportation of this commodity by truck to a basis of legal operation, under proper regulation, and it appears necessary for the proper protection and promotion of the cotton industry that efficient and dependable carriers be authorized to provide service. It also seems clear from the testimony herein that the cotton industry requires service incidental to transportation which only the mobility of truck units makes possible, thus bringing advantages of that system of transportation, as well as certain economies, which must be considered by this Commission in determining this matter; for instance, the selection of loads and their segregation; the assembling of quantities from different gins; and the concentration of all these cargoes at the harbor for compression before loading into boats. We are not unmindful of the fact that a low coast-to-coast water rate induces a diversion of the transportation from rail to steamship, and that the railroads have been unable to meet such situation; but it is equally true that should a change occur in the rates of either type of carriage, the collection and trans-shipment of the cotton crop might take an entirely different course. The basic fact herein presented

is that the cotton crop has moved and does move by truck to the harbor ; that the movement has heretofore been without valid regulation ; and that both shippers and those engaged in the transportation of the commodity alike seek to bring themselves within the law. We see no reason why they should not be permitted to do so.

Of the applicants before us in this proceeding, each of whom testified in his own behalf, two own equipment at this time and offer it for the service proposed herein. These applicants are Walter Willhour and Jerome F. Lyon.

Applicant Willhour owns seven trucks of 26 tons rated capacity, but capable of at least a 40 per cent overload, and four 5-ton and two 6-ton trailers. His equipment headquarters are at Bakersfield. This applicant appears to be in a position to acquire, by lease or otherwise, any additional equipment which may be necessary when the movement of cotton becomes too large for the vehicles now owned by him. He testified that at one time, in moving cotton from the San Joaquin Valley, he used 40 trucks and trailers. This applicant has been conducting transportation of cotton by truck from the San Joaquin Valley for three years, appears to be thoroughly conversant with the area and with the needs of the shippers, and the record is clear that all past service performed by him has been efficiently conducted. Applicant also showed financial connections which were assuring as to his ability to meet all needs for the service he proposes from the San Joaquin Valley. This applicant has not transported cotton from the Imperial Valley and his offer to furnish such transportation is based upon advice from the Cotton Exchange and not upon actual experience.

Applicant Lyon offers as equipment 17 trucks with a gross capacity of 68 tons, not including overload, and 11 5-ton trailers, all owned by him. Applicant testified that he expected to increase this equipment to 20 trucks and that he had resources and financial ability to lease or otherwise acquire any number of trucks required for the transportation of cotton or other commodities under his application. He further testified that his present worth is approximately \$75,000. This applicant has had experience in transporting cotton from the Imperial Valley through lease of his trucks, and plans, if authorized to conduct service to this region, to establish a service station and transportation headquarters about midway between Los Angeles and Calexico for the purpose of dividing his operating forces in operating the trucks. His present headquarters are in Los Angeles.

The rates and offer of service by applicants Willhour and Lyon are practically on a parity, except that applicant Lyon proposes to transport oil well equipment and supplies between Los Angeles and Los Angeles harbor and San Joaquin Valley points north of Bakersfield. As to the offer to transport oil well equipment and supplies, this appli-

cant produced no testimony in support of the necessity for the establishment of such a service and it was brought into his application largely as a matter of back-haul, as he has already transported considerable quantities of these commodities in the past. We do not believe the record contains any evidence in support of the need of this service.

The other two applicants, William Magee and J. W. Ritzman, possess no equipment, although the applications set up, in Exhibit "C," equipment for each. The application of Magee shows thirty-one 5-ton trucks "of various standard makes," but this applicant testified that he owned no trucks and would purchase no equipment for the service proposed by him, as he did not believe the sporadic nature of the service to be performed justified investment in trucks. He testified that his experience in handling cotton convinced him that unless the trucks were used for other purposes than hauling cotton, an investment for this purpose would not be justifiable. Applicant Magee under this system has transported about 10,000 bales of cotton from the Imperial and San Joaquin valleys. He testified that he had had fifteen years' experience in truck operation and had been connected with the motor transport department in France during the World War. Applicant further testified that he has \$7,000 to \$10,000 available for financing the leasing of trucks. His testimony indicated that he has been, in effect, receiving a commission from the truck owners for procuring the hauls he has conducted, and that he has not at any time entered into actual leases in a proprietary way. The rates proposed by this applicant are based upon his experience under a leasing arrangement.

Applicant Ritzman testified that he had not hauled any cotton from the Imperial Valley and that he had no equipment except four small vehicles, which would not be useful in the service proposed. In his application this applicant listed six trucks, but he testified that he did not own any of the equipment, preferring to rent or lease equipment from others. Applicant further testified that he had employed trucks thus leased to haul cotton which he had contracted to transport from ranches to Calexico, and also in transporting hay, fruit and building material between various points and the Imperial Valley, including San Diego. He testified that his practice was to charge the shipper or consignee, whoever paid the bill, \$1 more than the rate he paid the man from whom he rented or leased the truck. Applicant further testified that he would arrange, if necessary, to acquire vehicles for use in the service proposed. His rates, as shown by his Exhibit "A" attached to the application, are 65 cents per 100 pounds for any distance or from any point between Calexico and Calipatria, and 45 cents per 100 pounds from Coachella Valley points.

After due consideration of the offers of all the applicants herein, we believe the offers of service as made by applicants Willhour and Lyon

comprise all that is necessary for the dependable transportation of cotton from the Imperial and San Joaquin valleys to Los Angeles harbor points. The transportation of cotton from either of these valleys involves a haul of approximately 125 miles to Los Angeles harbor. Applicant Willhour's headquarters and equipment are located advantageously for service in the San Joaquin Valley and are at least 250 miles from the nearest producing region in the Coachella Valley. Applicant Lyon's equipment and headquarters are located at Los Angeles and are therefore 125 miles nearer the Coachella and Imperial valleys. Especially will applicant Lyon's equipment be more valuable to the southeast than the equipment of applicant Willhour if Lyon establishes a station in the Imperial Valley at a point approximately eight hours' drive from Los Angeles, as he testified he purposes to do. Each of these applicants has had experience in the region in which he is located, and each seems to be amply prepared to furnish all the service necessary and to possess the requisite financial ability.

We therefore believe that a certificate should be granted to applicant Willhour covering service from all points in the San Joaquin Valley, and to applicant Lyon covering service from all points in the Coachella and Imperial valleys. We believe it is far better to entrust operations of this character, often of vital importance to the cotton industry, to applicants possessing their own equipment, than to applicants who propose merely leasing arrangements. It is clearly of record, however, that the service rendered by applicant Magee to the Cotton Exchange shippers has been satisfactory.

After full consideration of all the evidence and exhibits herein, we are of the opinion and hereby find as a fact that public convenience and necessity require the service of Walter Willhour in the transportation of cotton from San Joaquin Valley points to Los Angeles and Los Angeles harbor, and of Jerome F. Lyon in the transportation of cotton from Coachella Valley and Imperial Valley points to Los Angeles and Los Angeles harbor, and that certificates therefor should be granted; also that the applications of J. W. Ritzman and William Magee should be denied. An order to this effect will be entered.

ORDER.

J. W. Ritzman having made application to the Railroad Commission for a certificate of public convenience and necessity to operate an automobile freight service for the handling of cotton between Imperial Valley and Coachella Valley points and Los Angeles and Los Angeles harbor, and between San Joaquin Valley points and Los Angeles and Los Angeles harbor, public hearings having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the service as proposed by applicant; and

It is ordered, that the application be and the same hereby is denied.

William Magee having made application to the Railroad Commission for a certificate of public convenience and necessity to operate auto truck freight service for transporting cotton, in bales only, from Imperial Valley points and San Joaquin Valley points to Los Angeles and Los Angeles harbor, public hearings having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the service as proposed by applicant; and

It is ordered, that the application be and the same hereby is denied.

Walter Willhour having made application to the Railroad Commission for a certificate of public convenience and necessity to operate an auto truck freight service in transporting cotton, cotton seed, cotton products and cotton gin supplies from Imperial Valley points and San Joaquin Valley points to Los Angeles and Los Angeles harbor, and between points in the San Joaquin Valley, public hearings having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment of service as proposed by applicant between Bakersfield, Weed Patch, Arvin, Lamont, Magunden, Shafter, Wasco, McFarland, Delano, Corcoran, Fresno, Porterville, Mendota, Firebaugh, Madera and Merced, and Los Angeles and Los Angeles harbor, and between Bakersfield, Weed Patch, Arvin, Lamont and Magunden, and Fresno, Mendota and Firebaugh, and between Corcoran and Fresno or Bakersfield, and to or between no other points, over and along the following route:

Via main traveled roads to and from the state highway between Merced and Los Angeles, thence to Los Angeles and Los Angeles harbor; and

It is ordered, that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to the conditions appended to and following this order.

It is further ordered, that as to all other points applied for, the application herein be and the same hereby is denied.

Jerome F. Lyon having made application to the Railroad Commission for a certificate of public convenience and necessity to establish motor truck service between Imperial Valley points and Los Angeles, Wilmington and San Pedro, and between San Joaquin Valley points and Los Angeles, Wilmington and San Pedro, for the transportation of cotton, cotton products, cotton gin supplies and oil well equipment and

supplies, public hearings having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment of service as proposed by applicant between Coachella, Thermal, Westmoreland, Calipatria, Brawley, Imperial, El Centro, Holtville, High Line, Seeley and Calexico, and Los Angeles and Los Angeles harbor points (Wilmington and San Pedro), over and along the following route:

Via State highway between Calexico and Los Angeles and Los Angeles harbor, and

Via main traveled roads from points off said highway to and from said highway; and

It is ordered, that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to the conditions appended to and following this order.

It is further ordered, that as to all other points applied for, the application be and the same hereby is denied.

It is further ordered, that each of the certificates herein granted is subject to the following conditions:

I. Applicant shall, within twenty (20) days from the date hereof, file with this Commission his written acceptance of the certificate herein granted; shall file, in duplicate, time schedules and tariff of rates identical with those as set forth in exhibit attached to the application herein within a period of not to exceed twenty (20) days from date hereof; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

II. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

III. No vehicle may be operated by applicant under the authority hereby granted unless such vehicle is owned or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this fifteenth day of May, 1925.

DECISION No. 14940.

IN THE MATTER OF THE APPLICATION OF WILLIAM J. McNAMARA
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 10833.

Decided May 15, 1925.

CERTIFICATE—WATER UTILITY.—William J. McNamara authorized to operate domestic water plant on tracts Nos. 7519 and 7955, Los Angeles County. Rates established.

W. J. McNamara, *in propria persona*.

BY THE COMMISSION.

OPINION.

In the above entitled application, William J. McNamara asks for a certificate of public convenience and necessity for the operation of a public utility water system for domestic purposes in tracts 7519 and 7955 in the vicinity of Lomita, Los Angeles County.

A public hearing in this matter was held before Examiner Williams at Los Angeles after due notice thereof had been given so that all interested parties might appear and be heard.

The testimony shows that the applicant subdivided and put on the market tracts 7519 and 7955, containing 180 lots, and installed a water system to serve the property and to aid in the sale of the lots. The system consists of a 12-inch well 465 feet deep equipped with a deep well pump operated by a 35-horsepower motor. Water is lifted into a storage tank of 11,000 gallons capacity, from which it is distributed by gravity to the consumers. There are at the present time 67 consumers being served with water in these two tracts. In addition to the above, applicant also supplies water at wholesale to a gravel pit and a tract of subdivided property owned by the Long Beach Realty Company.

The testimony shows that since December 1, 1924, applicant has collected a flat rate of \$1.50 per month from each consumer. During the hearing applicant requested the Commission to authorize the schedule of flat rates now in effect and offered no objection to the establishment of a comparable rate for metered service. The present rates are reasonable and compare favorably with the rates of other utilities in Los Angeles County operating under like conditions.

The county of Los Angeles has granted to McNamara franchise No. 1207, giving him the right to construct and install a water system in said tracts 7519 and 7955 and also in certain other territory adjacent thereto. There is no other public utility serving water in the immediate vicinity and no one appeared to contest the granting of the application. It appears therefore that this application should be granted.

ORDER.

William J. McNamara having made application as entitled above, a public hearing having been held thereon, the matter having been duly submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that William J. McNamara construct and operate a water system for the purpose of supplying water for domestic purposes in tracts numbers

7519 and 7955, more particularly described in the application herein and located in Los Angeles County.

It is hereby ordered, that William J. McNamara be and he is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for all service rendered subsequent to June 1, 1925:

Monthly Flat Rate.

For each residence..... \$1 50

Monthly Meter Rates.

For 500 cubic feet or less.....	1 25
From 500 to 1,000 cubic feet, per 100 cubic feet.....	20
From 1,000 to 2,000 cubic feet, per 100 cubic feet.....	15
All over 2,000 cubic feet, per 100 cubic feet.....	12

Minimum Monthly Charges.

$\frac{5}{8}$ -inch meter	1 25
$\frac{3}{4}$ -inch meter	1 75
1-inch meter	2 75
1 $\frac{1}{4}$ -inch meter	5 00
2-inch meter	7 50
3-inch meter	15 00

It is hereby further ordered, that William J. McNamara be and he is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing the distribution of water to consumers, said rules to become effective upon their approval by this Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this fifteenth day of May, 1925.

DECISION No. 14941.

IN THE MATTER OF THE APPLICATION OF R. H. RASMUSSEN AND
J. C. SVANE FOR AN ORDER AUTHORIZING AND RATIFYING
ISSUE OF PROMISSORY NOTES.

Application No. 11053.

Decided May 15, 1925.

SECURITIES—NOTES—TO ISSUE.—R. H. Rasmussen and J. C. Svane authorized to issue \$82,280 of promissory notes, secured by deeds of trusts.

Myron Harris, by R. J. Darter, for Applicants.

BY THE COMMISSION.

OPINION.

In this application R. H. Rasmussen and J. C. Svane, copartners doing business under the firm name and style of Santa Fe Express and Drayage Company, ask the Railroad Commission to make an order

ratifying, confirming and approving and/or authorizing the execution of two deeds of trust and the issue of \$82,280 of notes as follows:

1. To Mercantile Trust Co. of California-----	\$30,000 00
2. To Geo. G. Katz et al.-----	50,000 00
3. To Geo. G. Katz et al.-----	750 00
4. To Geo. G. Katz et al.-----	750 00
5. To Autocar Sales and Service Company-----	780 00
Total -----	<u>\$82,280 00</u>

Applicants are engaged in transporting freight between San Francisco and Oakland and in local draying in Oakland. It appears that during 1924 they purchased ten lots, located on Clay between Fourth and Fifth streets, Oakland, and comprising a tract of land 100 feet by 200 feet in area, and caused to be erected a one-story reinforced concrete stable and garage to be used for both classes of business. It appears that the land was purchased at a cost of \$58,000, including agents' commissions, and the building erected at a cost of \$25,000, and that to obtain the funds necessary, applicants issued the following notes:

Payee	Date of Issue	Date Due	Interest	Amount
Mercantile Trust Co. of California-----	August 1, 1924	August 1, 1925	6%	\$30,000 00
George H. Katz et al.-----	August 1, 1924	August 1, 1944	6%	50,000 00
George H. Katz et al.-----	August 5, 1924	August 5, 1925	6%	750 00
George H. Katz et al.-----	August 5, 1924	August 5, 1925	6%	750 00
George H. Katz et al.-----	August 5, 1924	Febr'y 5, 1926	6%	750 00
George H. Katz et al.-----	August 5, 1924	Febr'y 5, 1926	6%	750 00
Total -----				<u>\$83,000 00</u>

The item of \$780 due Autocar Sales and Service Company is part of the amount due under a contract providing for the purchase by applicants for \$3,855 of one Autocar. Of the total amount \$300 was paid in cash, \$1,155 was allowed for a truck turned in, and the balance, \$2,400, was represented by eighteen notes dated November 29, 1924, and maturing serially on the twenty-ninth of each month from December, 1924, to May, 1926, with interest at 6 per cent per annum. Seventeen of the notes are in the principal amount of \$135, and one is for \$105.

It appears that at the time applicants issued the notes they were unaware of the provisions of the Auto Stage and Truck Transportation Act, requiring the issue of the notes to be authorized by the Commission. Authority to issue the notes is now requested. In making the request it is reported that although the \$30,000 note is due August 1, 1925, one year after date, the applicants have a tacit agreement with the holder thereof to pay the amount at the rate of \$300 monthly. Of the four notes for \$750 each, it appears that only two are payable later than one year after date, and of the indebtedness of \$3,855, for the purchase of the truck, only \$780 is payable after such period.

The note for \$30,000 is secured by a first deed of trust on the land and building referred to herein, and the note for \$50,000 by a second

deed of trust on the same properties. Copies of these deeds of trust are filed with the application as Exhibits "G" and "H" and appear to be in satisfactory form.

ORDER.

R. H. Rasmussen and J. C. Svane having applied to the Railroad Commission for permission to issue notes, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the application should be granted as herein provided, and that the money, property or labor to be procured or paid for through such issue is reasonably required by applicants;

It is hereby ordered, that R. H. Rasmussen and J. C. Svane be and they are hereby authorized to execute two deeds of trust substantially in the same form as those filed in this proceeding and marked exhibits "G" and "H" and to issue their promissory notes in the aggregate amount of \$82,280 consisting of a \$30,000 6 per cent note to Mercantile Trust Company of California payable in monthly installments of \$300; a \$50,000 note to George G. Katz, Louis R. Katz, Gustave A. Katz, Lena S. Kalben, Freda Paula Katz (also known as Fidelia Paula Katz, and now known as Fidelia P. Sherwood), payable on or before August 1, 1944, with interest at 6 per cent per annum; two \$750 notes to George G. Katz, Louis R. Katz, Gustave A. Katz, Lena S. Kalben, Freda Paula Katz (also known as Fidelia Paula Katz, and now known as Fidelia P. Sherwood), payable on or before February 5, 1926, with interest at 6 per cent per annum; five notes for \$135 each to Autocar Sales and Service Company payable on the twenty-ninth day of the months of, and from, December, 1925, to April, 1926, inclusive; and a note for \$105, payable to Autocar Sales and Service Company on May 29, 1926, with interest at 6 per cent per annum.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted to execute deeds of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and the Auto Stage and Truck Transportation Act, and is not intended as an approval of said deeds of trust as to such other legal requirements to which said deeds of trust may be subject.

2. Applicants shall keep such record of the issue and delivery of the notes herein authorized as will enable them to file within thirty days after such issue and delivery a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective when applicants have paid the fee prescribed by section 57 of the Public Utilities

Act, and section 6 of the Auto Stage and Truck Transportation Act, which fee is \$83.

Dated at San Francisco, California, this fifteenth day of May, 1925.

DECISION No. 14943.

IN THE MATTER OF THE APPLICATION OF MADERA GAS COMPANY
FOR CHANGE IN BASIC RATE AND ESTABLISHMENT OF JUST
AND REASONABLE RATES.

Application No. 10933.

Decided May 18, 1925.

RATES—GAS UTILITY—AUTOMATIC ADJUSTMENT.—Madera Gas Company authorized to place in effect a schedule of rates based on the cost of fuel oil at \$1.85 per barrel f. o. b. Madera, such rates to be adjustable on the basis of 2.9 cents per 1000 cubic feet of gas for each 10 cents decrease in the cost of oil below \$2.40 per barrel.

by *Geo. W. Kitchen*, for Madera Gas Company.

DAVEY, Commissioner.

OPINION.

This is an application of Madera Gas Company for a revision of the basic schedule of rates to be charged for gas service, as set by this Commission in its Decision No. 11094 (22 C. R. C. 388), dated October 1, 1922. This basic schedule was predicated on a price for oil of \$1.70 per barrel, and provided that when the price paid for oil was less than \$1.70 per barrel, certain reductions should be made in the rate charged for gas. Applicant shows that the price paid for oil is now \$1.85 per barrel f. o. b. Madera, and alleges that unless provision is made for a corresponding increase in the rates charged for gas, it will be unable to earn a fair return upon its investment. It therefore requests that the schedule be revised to furnish relief for the present price of oil and for future increases in the price of oil which it considers probable.

A public hearing was held in Madera on April 24, 1925, at which evidence was presented by representatives of Madera Gas Company and the engineering department of the Commission, and the matter submitted. A report presented by the engineering department of the Commission showed the calculation of a reasonable rate base for the year 1925 as given in the following table:

TABLE I.

Reasonable Rate Base—Madera Gas Company—Year 1925.

Total fixed capital, January 1, 1922 (Decision No. 11094)-----	\$79,848 94
Additions and betterments, 1922-----	15,007 26
Total fixed capital, January 1, 1923-----	\$94,856 20
Additions and betterments, 1923-----	3,130 44
Total fixed capital, January 1, 1924-----	\$97,986 64

Additions and betterments, 1924-----	\$1,730 86
Total fixed capital, January 1, 1925-----	\$99,717 50
Estimated additions and betterments, 1925-----	3,883 00
Estimated total fixed capital, January 1, 1926-----	\$103,600 50
Estimated average capital, 1925-----	\$101,659 00
Materials and supplies -----	3,200 00
Working cash capital -----	2,717 18
Total rate base, 1925-----	\$107,576 18

These figures were not questioned and will be accepted as reasonable for the purposes of this decision.

The Commission's engineer also presented an estimate of the results of operations during the year 1924 on the assumption that existing rates are continued:

TABLE II.

Estimated results of operations of Madera Gas Company for the year ending 1925.

Gross revenue -----	\$42,469 06
Operating expense:	
Oil -----	\$10,972 35
Other production -----	6,000 00
Total -----	\$16,972 35
Distribution -----	3,975 00
Commercial -----	2,520 00
General expense -----	4,340 00
Taxes -----	4,012 02
Depreciation -----	2,640 43
Total expense -----	\$34,459 80
Uncollectible bills -----	125 00
Total -----	\$34,584 80
Net for return-----	\$7,884 26

A comparison of the estimated net return of \$7,884 with the reasonable rate base of \$107,576, indicates that if the present rates are continued without change, the rate of return will be approximately 7.3%. The calculations of the Commission's engineering department showed that each change of 10 cents per barrel in the cost of oil results in a corresponding change of 2.9 cents per 1000 cubic feet in the cost of gas delivered to the consumers.

Since the last decision of the Commission in connection with this company in 1922, its consumers have received a benefit of changes in gas rate on account of reductions in the cost of oil below the basic price. It appears entirely fair that the company should receive a reasonable return under existing conditions, and in the future, provided that rates are not thereby increased to an unreasonable degree.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

After full consideration it appears reasonable to provide for a variation in gas rates with the cost of oil up to a price of \$2.40 per barrel of oil in the city of Madera. There is some doubt, however, as to whether rates should be permitted to be increased to a level above that corresponding to a price of oil. This decision will therefore provide for the adjustment of gas rates with oil price up to this maximum limit, and for action looking toward a reduction in rate or a further increase, to be based upon the conditions found to exist when and if the price of oil exceeds \$2.40 per barrel. I recommend the following form of order:

ORDER.

Madera Gas Company, having applied to the Railroad Commission for an order authorizing an increase in the rates charged for gas service rendered in the city of Madera and vicinity, a public hearing having been held and the matter being submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed by Decision No. 11094 should be modified and that the rates hereinafter set forth are just and reasonable rates to be charged for gas service by Madera Gas Company.

Accordingly, its order upon the foregoing findings of fact, and on the findings of fact contained in the opinion preceding this order;

it is hereby ordered, that

Until further order of this Commission, Madera Gas Company shall charge and collect for gas service rendered in the city of Madera and vicinity, in accordance with the following basic schedule of rates:

SCHEDULE OF RATES.

General service (artificial gas).

Whereof:

Applicable to all territory served by company.

	Gross	Net
Up to 500 cubic feet or less per meter per month-----	\$1 35	\$1 25
From 2,500 cubic feet per meter per month per 1000 cubic feet--	2 30	2 20
From 5,000 cubic feet per meter per month per 1000 cubic feet--	-----	2 00
From 7,000 cubic feet per meter per month per 1000 cubic feet--	-----	1 90
From 15,000 cubic feet per meter per month per 1000 cubic feet--	-----	1 70

Rates above rates, after the first 500 cubic feet or less, are subject to decrease on basis of 2.9 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil from the price of \$2.40 per barrel, f. o. b. Madera, upon order of the Railroad Commission of the State of California. Change to be to the nearest one cent per 1000 cubic feet.

For payment discount.

The net rate is effective if the bill is paid at the office of the company on or before 10 days from date bill is rendered. If the bill is not paid on or before said date, the gross rate is effective.

Within fifteen (15) days after the date of this order, Madera Gas Company shall file with this Commission the foregoing schedule of rates reduced by 16 cents per 1000 cubic feet, to correspond to the

present price of oil of \$1.85 per barrel, f. o. b. Madera, such rates to become effective with bills based on regular monthly meter readings taken on and after June 15, 1925.

(3) Should at any time the price paid for oil by Madera Gas Company be reduced, Madera Gas Company shall, within ten (10) days after such reduction, file with this Commission an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedule set forth in paragraph 1 of this order.

(4) Should at any time an increase occur in the price paid for oil by Madera Gas Company it may, after filing affidavit of such increase and receiving supplemental order from this Commission so authorizing, charge the increased rates determined under the schedule set forth in paragraph 1 of this order.

(5) For all other purposes, the effective date of this order shall be twenty (20) days after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of May, 1925

DECISION No. 14944.

IN THE MATTER OF THE APPLICATION OF VENICE CONSUMERS WATER COMPANY FOR AUTHORITY TO PURCHASE, AND BEACH LAND WATER SYSTEM FOR AUTHORITY TO SELL, ALL OF THE PROPERTIES OF THE SAID BEACH LAND WATER SYSTEM.

Application No. 10905.

Decided May 18, 1925.

TRANSFER—WATER UTILITY.—H. F. Mackie authorized to transfer Beach Land Water System in Playa del Rey, to Venice Consumers Water Company.

McAdoo and Neblett, by *W. H. Neblett*, for Venice Consumers Water Company.
H. J. Nice, for Beach Land Water System.

SHORE, Commissioner.

OPINION.

H. F. Mackie, doing business under the fictitious name of Beach Land Water System, has applied to the Railroad Commission for permission to sell his public utility water system at Playa del Rey, Venice, California, to Venice Consumers Water Company, which has joined in the application.

A public hearing in this matter was held at Los Angeles after due notice thereof had been given so that all interested parties might appear and be heard.

testimony shows that the entire water supply of the Beach Water System is purchased through a master meter from the Venice Consumers Water Company.

pipe lines in the distribution system are becoming worn out and inadequate and are now in need of replacement with new and larger mains. The evidence shows that the Venice Consumers Water Company is to be paid \$6,300 in consideration for taking over this system, which amount is to be applied toward the installation of proper distribution mains and facilities for rendering fire service.

Venice Consumers Water Company charges a higher quantity or metered service but has a lower monthly minimum charge than the Beach Land Water System. It necessarily follows that the granting of this transfer and the substitution of the rates of the Venice Company for those now in effect will result in an increase in water bills for the consumers while in other cases it will result in a decrease. It is apparent that those consumers who use over the monthly minimum of five cubic feet of water will be required to pay more than in the past. However, the evidence indicates that the operations of this system have never resulted in producing income sufficient to meet the cost of purchasing water, together with the other operating expenses, depreciation annuity, and an interest return to the extent to which it is added upon the investment.

In the condition of the system it is apparent that the urgent necessity for extensive and general costly improvements would have existed in the very near future in a request for an increase in rates. Better service conditions which will result from the improvements made in this system will without doubt more than offset the increased charges which some of the consumers will have to pay for

none appeared to contest the granting of this application, and with understanding that the Venice Consumers Water Company will take immediate measures to improve the service conditions as outlined

it appears that the public interest will be served best by the granting of this transfer.

The following form of order is submitted:

ORDER.

Application having been made as entitled above, a public hearing has been held thereon, the matter having been submitted and the Commission being now fully informed in the premises;

It is hereby ordered, that H. F. Mackie, doing business under the name and style of Beach Land Water System, be and he is authorized to transfer to Venice Consumers Water Company certain public utility water plant commonly known as Beach Land

Water System, located in Playa del Rey, in the city of Venice, California, subject to the terms and conditions as set forth in that certain agreement of sale attached to and made a part of the above application and designated as Exhibit "A," and upon the following conditions and not otherwise:

1. The authority herein granted shall apply only to such transfers as shall have been completed on or before August 31, 1925, and a certified copy of the final instrument of conveyance shall be filed with this Commission by H. F. Mackie within thirty (30) days from the date on which it is executed.

2. The consideration given for the transfer of this property shall not be urged before this Commission or any other public body as a finding of value for rate fixing purposes or for any purpose other than the transfer herein authorized.

3. Within ten (10) days from the date on which H. F. Mackie actually relinquishes control and possession of the property herein authorized to be transferred, he shall file with this Commission an affidavit indicating the date on which such control and possession was relinquished.

The authority herein granted shall become effective on the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of May, 1925.

DECISION No. 14947.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE ADEQUACY OF SERVICE, THE FACILITIES FOR SERVICE AND THE REASONABLENESS OF THE RATES, RULES AND REGULATIONS GOVERNING GAS SERVICE OF SACRAMENTO GAS COMPANY IN LODI, CALIFORNIA.

Case No. 1733.

Decided May 18, 1925.

RATES—GAS UTILITY—AUTOMATIC ADJUSTMENT.—Sacramento Gas Company authorized to adjust rates on a basis of the cost of fuel oil at \$1.736 per barrel f. o. b. Lodi.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, in Decision No. 10600 (21 C. R. C. 851), in the above entitled matter, this Commission provided, with reference to the rates therein established, that such rates would be subject to increase or decrease, upon approval of the Railroad Commission, on the basis of 3.2 cents per 1000 cubic feet for each 10-cent increase or decrease

respectively in the cost of oil above or below the price of \$1.91 per barrel; and

Whereas, Sacramento Gas Company now makes affidavit that on May 1, 1925, the price paid for oil was increased from \$1.336 per barrel to \$1.736 per barrel, making the present price for oil, 17.4 cents below the base price on which rates were established in Decision No. 10600;

It is hereby ordered, that Sacramento Gas Company be and it is authorized to increase its rates, designated as Schedule "B," as determined in Decision No. 10600, effective for all regular meter readings taken on and after June 1, 1925, so that said rates shall be equal to 6 cents less than the basic rates on file with the Commission as established in said Decision No. 10600.

It is hereby further ordered, that Sacramento Gas Company, in case it elects to exercise this privilege, file with the Commission, on or before June 1, 1925, a revision of its schedule as herein authorized.

Dated at San Francisco, California, this eighteenth day of May, 1925.

DECISION No. 14948.

IN THE MATTER OF THE APPLICATION OF HAL R. CLARK, FOR THE CONSTRUCTION OF A PRIVATE CROSSING OVER RAILROAD RIGHT OF WAY.

Application No. 10980.

Decided May 20, 1925.

GRADE CROSSING—PRIVATE ROAD—JURISDICTION.—Granting permission to Hal R. Clark to construct a private crossing over the right of way of Pacific Electric Railway Company's Newport line, the Commission holds that it has jurisdiction over private crossings, and that section 485a of the Civil Code, simply grants to one owning property along or through which a railroad passes, a means of ingress to or egress from such property; it grants nothing but the right to cross the right of way, and vests in this Commission the authority to determine the necessity for such crossing, the place, manner and conditions under which it shall be constructed and maintained, and to fix and assess the cost and expense thereof.

Hal R. Clark, in propria persona.

C. W. Cornell, for Pacific Electric Railway Company and for Southern Pacific Company, Protestants.

SHORE, Commissioner.

OPINION.

In this application, under section 485a of the Civil Code, authority is asked to construct a private crossing over Pacific Electric Railway Company's right of way and track, and also across Southern Pacific Company's right of way, at a point about one-quarter of a mile south-east of the city of Huntington Beach, Orange County, California. A public hearing was held in this matter in Los Angeles, April 15, 1925.

Applicant is the owner of a tract of land containing about 7.2 acres. This property is located between Pacific Electric Railway Company's right of way and the Pacific Ocean, extending along the railroad a distance of about 1500 feet. The depth of the property varies from 150 to 250 feet. The tracts of land adjoining applicant's property at either end are privately owned. There is no road leading to applicant's property, from any direction.

The State Highway Department has recently completed the paving of a 20-foot strip within its 100-foot right of way between Huntington Beach and Newport Beach. This is a link in the new state highway between Oxnard and Capistrano. Applicant's property is separated from the state highway by Southern Pacific Company's 40-foot right of way and the adjoining 60-foot right of way of Pacific Electric Railway Company.

Pacific Electric Railway Company operates upon a private right of way its so-called "Newport line," a single-track electric railroad upon which high speed interurban service is maintained, with a total of about 100 normal train movements per day. Prior to 1916 Southern Pacific Company operated a single-track line over its right of way between Newport Beach and Huntington Beach, but during the high water of 1916 the track was washed out opposite applicant's property, and has not since that date, been replaced. Southern Pacific Company made a connection with the Pacific Electric line at either end of the section washed out, and has subsequently been operating over about one-half mile of Pacific Electric Railway Company's track. The record shows, however, that the Southern Pacific Company plans to restore its track, in the near future. At present there is only one freight movement per day over the Southern Pacific line. This train travels at a slow rate of speed in the vicinity of the proposed crossing.

Applicant proposes to construct a beach resort on his property for the accommodation of an organized club. The proposed crossing will afford a means of ingress to or egress from the property, for applicant and members of the club only. Applicant offers to bear the cost of constructing the crossing and proposes to erect gates and maintain a watchman at the crossing at his expense. The use of the crossing is to be restricted to admit only applicant and members of the club. When the watchman is off duty the gates will be closed to traffic over the railroad, and locked. There is no definite limit as to the number of members of the club at this time.

Applicant claims that verbal application was made to the railroad companies for the construction of this crossing, and that verbal assurance was given that there would be no objection on their part to the construction of such a crossing, and that thereafter applicant constructed over his property up to the right of way line of Pacific Electric Railway Company a wooden roadway, but that after that was done

verbal permit was withdrawn and the applicant notified in writing to that effect. The Pacific Electric Railway Company represents that at no time was authority given to the applicant for the construction of his crossing, but that applicant was advised that his application to the railroad would require investigation, and that if the crossing were permitted, certain conditions would be required by the railroad.

The application prays for an order directing the Southern Pacific Company to permit applicant to use the crossing heretofore constructed by him across its right of way, and directing the Pacific Electric Railway Company to complete the crossing over its right of way so as to enable him to connect his wooden roadway with the state highway adjoining said right of way on the north. The application also prays that the Commission order said companies to construct and at all times maintain such private grade crossing in a good, safe and passable condition.

The Southern Pacific Company and the Pacific Electric Company appeared at the hearing and protested the issuance of such an order by the Commission on the ground that the Commission has no jurisdiction. They filed a joint brief wherein it is claimed that under sections 2681-2698, Political Code, sole jurisdiction over the opening of both public and private roads is vested in the board of supervisors of the county wherein the road in question is located; that all roads are public and that there is no distinction between a public and a private road; and that section 485a Civil Code has been superseded by section 2698, Political Code, as amended.

I am not impressed with the protestants' contention that all roads must be deemed public roads. In certain instances, as where one attempts to condemn the land of another for his own private purpose, the cases cited by protestants (*Sherman vs. Buick*, 32 Cal. 241; *Monrey vs. Cushing*, 83 Cal. 507) indicate clearly that the distinction does not prevail, but to say that a road constructed solely upon one's own land, with a mere right to cross a railroad right of way to afford ingress and egress, is not a private road, seems to me to fall by the weight of its own contradiction. It could not be questioned that title, possession and control of such a road is as much in private ownership as the land upon which it is located, nor that the owner might not at will, obstruct the way and deny passage to all. And this, I believe, makes the distinction to be made between the different rights outlined in sections 2681-2698, Political Code, and section 485a, Civil Code. The proceeding set forth in the Political Code is clearly designed to enable the public authorities at the request of certain individuals to alter or to continue an existing road or to lay out a new road for the use of the public generally. Section 485a, Civil Code, simply grants to one owning property along or through which a railroad passes, a means of

ingress to or egress from such property; it grants nothing but right to cross the right of way, and vests in this Commission authority to determine the necessity for such crossing, the place, manner and conditions under which it shall be constructed and maintained, and to fix and assess the cost and expense thereof.

From the evidence presented, I am of the opinion that the application should be granted, and the following form of order is recommended:

ORDER.

Application having been filed by Hal R. Clark for permission to construct a private crossing over the right of way tracks of Pacific Electric Railway Company and over right of way of Southern Pacific Company in Orange County, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that permission be and it is hereby granted Hal R. Clark to construct a private crossing at grade across the right of way and tracks of Pacific Electric Railway Company and across right of way of Southern Pacific Company in the County of Orange, the center line of said crossing to be located approximately at engineering station 1855 of the surveyed line of said Pacific Electric Railway Company's track. Said private crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing and maintaining the crossing shall be borne by applicant.

(2) The crossing shall be constructed not less than twenty (20) feet in width and at an angle of seventy (70) degrees to the railroad and with grade of approach not greater than six (6) per cent; shall be protected by a suitable private property sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Applicant shall erect suitable gates on each side of said crossing and shall keep said gates closed and locked at all times except when a watchman is maintained at the expense of applicant for the protection of the crossing and the prevention of its use by unauthorized persons.

(4) Applicant shall, within thirty (30) days thereafter, notify the Commission, in writing, of the completion of the installation of said crossing.

(5) If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall terminate and become void, unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered led as the opinion and order of the Railroad Commission of the State f California.

For all other purposes this order shall become effective twenty (20) ays from and after the date hereof.

Dated at San Francisco, California, this twentieth day of May, 1925.

DECISION No. 14949.

N THE MATTER OF THE APPLICATION OF THE SOUTHGATE GARDENS WATER COMPANY, A CORPORATION, FOR AN INCREASE OF WATER RATES.

Application No. 10637.

Decided May 21, 1925.

ATES—WATER UTILITY.—Southgate Gardens Water Company authorized to increase rate for water served between 700 and 3000 cubic feet per month from 15 cents to 20 cents per 100 cubic feet.

Vm. H. Neblett, by Arthur R. Smiley of Flint and MacKay, for Applicant.
ewton A. Hayne, for City of Southgate.

BY THE COMMISSION.

OPINION.

In this proceeding Southgate Gardens Water Company, a corporation, ngaged in the business of supplying water for irrigation and domestic purposes in and in the vicinity of the city of Southgate, Los Angeles ounty, asks for authority to increase its water rates.

The application alleges that the rates in effect produced a gross evenue of only \$20,460.05 for the twelve months ending November 1, 924, whereas the total annual charges, including a return upon the vestment, for the same period approximate \$34,000. The Commission s asked to establish a rate that will terminate the losses suffered by pplicant, and place its revenues upon a proper basis.

A public hearing in this proceeding was held in Los Angeles before xaminer Williams, after all interested parties had been duly notified nd given an opportunity to appear and be heard.

The rates now in effect were established by the Commission, Septem- er 24, 1923, in Decision No. 12653, and are as follows:

Monthly Meter Rates.

00 cubic feet or less	\$1 25
rom 700 to 3,000 cubic feet, per 100 cubic feet	15
ver 3,000 cubic feet, per 100 cubic feet	12

Monthly Minimum Charges.

inch meter	\$1 25
inch meter	1 50
inch meter	1 75
1/2-inch meter	2 25
inch meter	4 00
inch meter	8 00
inch meter	12 00

As stated in the former decision, this water system was installed for the purpose of furnishing water to a subdivision known as Southgate Gardens. Water mains were installed to serve each of the 2800 lots into which the area was originally divided. Certain of these lots are now being further divided by the present owners.

The water system consists of three pumping plants and wells, a 50,000-gallon tank located upon a 53-foot tower, and about 166,000 lineal feet of pipe varying in size from two to ten inches in diameter. The present demands of the system require the operation of only two of the pumping plants, the third one being nonoperative. The company's records show that on November 1, 1924, there were 1083 service connections installed, of which 1055 were active and metered.

At the hearing, reports were presented by Edward M. Lynch, chief engineer of Southgate, C. I. Rhodes, consulting engineer for applicant, and by William Stava, one of the Commission's engineers. Lynch's report was prepared in connection with a contemplated purchase of the system by the city and was based upon the reproduction cost of part of the property, the depreciated value being declared to be \$93,911. In arriving at this result, a large portion of the distribution system on certain other property was entirely depreciated upon the assumption that immediate replacement will be necessary if acquired by the city. The Rhodes report gave the estimated original cost of the system as \$205,370, and the depreciation annuity \$3,552, computed by the 6 per cent sinking-fund method. In the report of Stava the estimated original cost was found to be \$199,118, with the corresponding depreciation annuity \$4,068. The maintenance and operating expenses for the immediate future were estimated by both the Commission's engineer and the engineer for applicant to closely approximate \$14,445. The corresponding expenses for the year 1923 were \$11,160, and for the twelve months' period ending November 1, 1924, \$12,832. The increase in expenses which occurred in 1924, is attributable principally to the costs of changing, lowering and replacing mains, services and metering, entailed by reason of the extensive paving program being carried on by the city and may be expected to continue until the city's paving plans have been completed. A consideration of the estimates of the future maintenance and operation expenses presented, shows that they are reasonable and proper for the purposes of this proceeding.

The revenues of the company for the year ending November 1, 1924, were \$20,460, which upon the basis of the foregoing figures shows a net operating revenue of \$3,560 for 1924, with an estimated net revenue for 1925 of \$5,805. This reflects a return upon the estimated investment for those years of 1.8 per cent and 2.8 per cent respectively.

The evidence shows that the present system is very largely overbuilt in that it was installed to serve the entire subdivided area, which

present is only partially built up and not fully developed. For this reason the consumers could not fairly be charged with the total investment in the water system. It was further shown that the return earned under the present rate very closely approximated a reasonable return on the portion of the investment chargeable against the consumers when based on the number of consumers served as compared to the number of lots the installation was designed to serve. The rates in effect on this system are in general somewhat lower than rates on similarly located and operated utilities, but the difference is not sufficient to warrant any radical change in the present form of rates.

The rates established in the following order compare favorably with the rates of similar utilities, and will yield sufficient revenue to cover maintenance and operating expenses, depreciation annuity, and a reasonable return on that portion of the investment which is properly chargeable to the present consumers.

A large number of consumers appeared at the hearing and testified that the water delivered by applicant was unusually hard and required washing compounds to soften it; that it had an undesirable taste and an offensive odor that made it necessary for the consumers to purchase bottled water for drinking and cooking purposes; and that these additional requirements materially increased their water bills.

An industrial analysis of a sample of water from this system was prepared and presented at the hearing for the consumers by G. L. Cheney of Smith-Emery Company, chemists, which showed that the water contained twice the amount of solids in solution and was harder than the average water used for domestic purposes in southern California. The report further stated that while the water could be used for domestic purposes it was not recommended for such uses. An industrial analysis of samples of water taken from wells adjoining Southgate was also presented, which showed a softer water. It was contended therefore that if applicant's wells were lowered they probably would tap the same water strata. However, the evidence shows that applicant's wells are of about the same depth as the wells from which the samples of the softer water were taken.

R. F. Goudey, southern division engineer for the State Board of Health in Los Angeles, testified that his office has received no complaints from Southgate regarding the water; that mineralized water was not unhealthful; that odor had no direct relation to the purity of water and was not considered a menace to health. He further testified that a bacteriological examination was made of a sample of water taken from the system on May 7, 1923, which showed that the water was uncontaminated and safe from a sanitary standpoint at the time the sample was taken.

From a study of the analysis of the water it is doubtful if the odor complained of is due to the water itself, but is very likely caused by the chemical action of the salts in the water acting on the material of which the pipe was dipped, for no complaints were made as to odor or taste from services located near the wells or on mains from which water is freely used. The complaints of this nature arise in areas that are not thickly settled and where the water is permitted to become more or less stagnant. This would indicate that the difficulties are mainly attributable to poor circulation. This condition can be remedied by the installation of necessary valves at points which will permit thorough and complete flushing of the entire system, especially throughout the thinly settled districts.

Representatives of the city of Southgate contended that the cost of the water system had been included in the sale prices of the various lots in the subdivision and the system therefore was in fact actually owned by the consumers, who could not be properly charged again for a return on the investment made in the water system by applicant. This contention was based on the statements and various circulars issued by sales agents to the effect that all improvements are included in the price of a lot, and on the fact that the Southgate Gardens Water Company was organized and its stock is owned by the Southern Extension Company which subdivided the Southgate area. However, the evidence shows that the improvements referred to in the circulars apply to streets, curbs, sidewalks, etc., and that the service of gas, electricity and water as set out in said circulars is as follows: "Gas and electricity and an ample supply of water will be furnished to each lot at the prevailing Los Angeles rates, or at such rates as shall be fixed by the Railroad Commission of California." No evidence was presented that would warrant the conclusion that the consumers had advanced the cost of the water system or that they now owned any part of it.

ORDER.

Southgate Gardens Water Company, a corporation, having made application for authority to increase the rates for water delivered to consumers at Southgate, Los Angeles County, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter:

It is hereby found as a fact that the rates now charged by Southgate Gardens Water Company, a corporation, for water delivered to consumers at Southgate, Los Angeles County, are unjust and unreasonable so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

Basing the order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Southgate Gardens Water Company, a corporation, be and it is hereby directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates for all water delivered to consumers in Southgate, Los Angeles County, on and after the first day of June, 1925:

Monthly Meter Rates.

00 cubic feet or less.....	\$1 25
From 500 to 3,000 cubic feet, per 100 cubic feet.....	20
Over 3,000 cubic feet, per 100 cubic feet.....	12

Monthly Minimum Charges.

1-inch meter	\$1 25
1-inch meter	1 50
1-inch meter	1 75
1-inch meter	2 25
1-inch meter	4 00
1-inch meter	8 00
1-inch meter	12 00

Each of the foregoing "monthly minimum charges" will entitle the consumers to the quantity of water which that minimum monthly charge will purchase at the monthly meter rates."

It is hereby further ordered, that Southgate Gardens Water Company, a corporation, be and it is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing the distribution of water to consumers, said rules to become effective upon their approval by this Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twenty-first day of May, 1925.

DECISION No. 14950.

IN THE MATTER OF THE APPLICATION OF A. R. WAGNER, OWNER OF
MONTARA WATER COMPANY, FOR AN INCREASE IN RATES.

Application No. 10854.

Decided May 21, 1925.

RATES—WATER UTILITY.—Applicant authorized to increase certain rates to produce a fair annual return, and suggestions made for improving service of and quality of the water.

A. R. Wagner, for Applicant.

F. W. F. Eaton, N. M. Kullander, Bessie Chase and R. C. Semler, for Consumers.

BY THE COMMISSION.

OPINION.

A. R. Wagner, operating under the name and style of Montara Water Company and engaged in the business of furnishing water for domestic and commercial purposes in and in the vicinity of the town of Montara,

San Mateo County, makes application for authority to increase the rates for water.

The application alleges, in effect, that the rates now charged are unreasonably low and do not produce sufficient revenue to meet operating expenses and depreciation, or any return whatever upon the investment in the property; wherefore applicant asks that this Commission establish just and reasonable rates to be charged hereafter for such service.

A public hearing in this proceeding was held at Montara before Examiner Austin, after all interested parties had been duly notified and given an opportunity to appear and be heard.

The rates at present in effect as established by this Commission in Decision No. 8546, dated January 17, 1921, are as follows:

Monthly Flat Rates.

For residences of six rooms or less.....	\$1 50
For each additional room	10
For each private bath tub	20
For each private toilet	20
Stores	1 50
Butcher shops, ice cream parlors and drug stores.....	2 00
For the irrigation of lawns, shrubbery and gardens, for each square yard of surface actually irrigated	003

Monthly Meter Rates.

Minimum for $\frac{3}{8}$ or $\frac{1}{2}$ -inch meters.....	\$1 50
Minimum for 1-inch meters	2 00
Minimum for 1 $\frac{1}{2}$ -inch meters.....	2 50
Minimum for 2-inch meters	3 00
For all use up to 2,000 cubic feet, per 100 cubic feet.....	30
All over 2,000 cubic feet, per 100 cubic feet.....	25

The history of the company shows that applicant acquired one of the units of the present system from California Suburban Home Company and the other from Montara Realty Development Company. Both of these systems were laid out in 1906 as part of the development of two real estate subdivisions. The promoters of these real estate ventures expected the district to develop sufficiently to cause the operation of the water system to be remunerative. However, the territory served has not developed to this extent, as there are only seventy-three consumers on the system, of whom ten consumers have been added since 1920. The overbuilt condition of the system is shown by the fact that there are 52,500 feet of mains for 73 consumers, or approximately 700 feet of mains per service, which results in an unusually large investment per consumer.

Water is obtained by diversion from two small streams when water is available and the supply is supplemented by pumping from a well. The water from both sources is conveyed to a concrete reservoir and then distributed by gravity through mains varying from 4 inches to

inch in diameter, to the consumers. About 60 of the 73 services are metered.

Mr. D. H. Harroun, one of the Commission's engineers, presented a report covering the results of a field investigation, an appraisal of the property, and a study of the cost of maintenance and operation. His appraisal shows the estimated original cost of the system to be \$23,439, with \$321 as a proper replacement annuity computed on the 6 per cent sinking fund method. This report also recommends the sum of \$1,458 as a fair and reasonable estimate of the future annual cost of maintaining and operating this system. These estimates were not questioned at the hearing, and appear reasonable.

The revenue for the year 1924 was \$1,723. The total estimated maintenance and operation charge and depreciation annuity for a year is \$1,779. This results in an annual loss of \$56, without considering any allowance for a return on the investment. It would appear that some adjustment in the rate should be made in order that applicant may have sufficient funds to properly maintain the system and render adequate service to the consumers, and earn some return on that portion of the investment which is properly chargeable to the present consumers. The rates set out in the following order are designed to yield sufficient revenues to cover the above-mentioned charges.

At the hearing, the consumers testified that the water served by applicant was muddy and had a disagreeable odor, particularly after rains. They asked that applicant be required to clarify the water and remove the objectionable odors.

Mr. E. A. Reinke, assistant engineer of the State Board of Health, testified that the water from the creeks was not dangerous to health but that there was a possibility of its being contaminated by hunters and cattle. He further testified that filtration and purification of the water from the creek was not feasible on this system on account of the cost to the consumers.

It is suggested that applicant install a screening device at the diversion works for removing floating vegetable matter, and also install either a small reservoir to act as a mud settler or a partition in the present reservoir that will permit clearing the water before it is distributed to the consumers. It is also suggested that applicant clean the present reservoir more often and either install valves on the system or flushing the mains, or connect up the dead ends in order to keep the water circulating. The odors complained of are mainly due either to stagnant water in the pipe lines or to failure to clean the reservoir, and both objections may be easily remedied as suggested above.

ORDER.

A. R. Wagner, owner of Montara Water Company, having made application to the Railroad Commission as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by A. R. Wagner, owner of Montara Water Company, for water supplied to its consumers are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for the service rendered.

Basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California, that A. R. Wagner, owner of the Montara Water Company, be and he is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates, said rates to be charged on all bills rendered to consumers on and after June 1, 1925:

Monthly Flat Rates.

For residences of six rooms or less.....	\$1 50
For each additional room	10
For each private bath tub	20
For each private toilet	20
Stores	1 50
Butcher shops, ice cream parlors and drug stores.....	2 00
For the irrigation of lawns, shrubbery and gardens, for each square yard of surface actually irrigated	003

Minimum Monthly Charges.

Minimum for $\frac{5}{8}$ -inch meters	\$1 50
Minimum for $\frac{3}{4}$ -inch meters.....	2 00
Minimum for 1-inch meters	2 50
Minimum for 1 $\frac{1}{4}$ -inch meters	3 50
Minimum for 2-inch meters	5 00

Each of the foregoing minimum monthly charges will entitle the consumers to the quantity of water which that minimum monthly charge will purchase at the following "monthly meter rates."

Monthly Meter Rates.

For all use up to 2,000 cubic feet, per 100 cubic feet.....	\$0 40
All over 2,000 cubic feet, per 100 cubic feet.....	35

It is hereby further ordered, that A. R. Wagner be and he is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing the distribution of water to consumers, said rules to become effective upon their approval by this Commission.

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or all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

ated at San Francisco, California, this twenty-first day of May,

DECISION No. 14952.

THE MATTER OF THE APPLICATION OF ASSOCIATED TELEPHONE COMPANY, FOR AN ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 11042.

Decided May 21, 1925.

RITIES—STOCK TO ISSUE.—Associated Telephone Company authorized to issue and sell 3000 shares of its common capital stock at \$100 per share, and to use the proceeds derived from the sale of such stock to reimburse its treasury, pay indebtedness, and finance in part the cost of additions, betterments, extensions and improvements.

E. Biby, for Applicant.

THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Associated Telephone Company to issue and sell, at less than par, 3000 shares of its common capital stock of the aggregate par value of \$300,000 for the purpose of reimbursing its treasury of financing the cost of extensions and betterments necessary to care of its rapidly growing business.

The application shows that Associated Telephone Company is engaged in the business of owning, maintaining and operating public telephone exchanges in and about the cities of Long Beach and San Bernardino. It reports 17,210 stations in service on December 31, 1922; 21,261 on December 31, 1923; 24,878 on December 31, 1924, and 29,339 on March 31, 1925. For the year ending December 31, 1922, the company reports its gross revenue at \$485,050.72 and its net income, after paying operating expenses, providing for depreciation, and interest and other deductions at \$71,669.32; for the year ending December 31, 1923, its gross income at \$507,835.48 and its net income at \$101,995.95; and for the year ending December 31, 1924, its gross income at \$710,148.65 and its net income at \$187,309.37.

The applicant has an authorized capital stock of \$2,000,000 divided into 20,000 shares of the par value of \$100 each, all common. As of March 31, 1923, \$1,211,800 of stock was reported outstanding. In making the present request to issue an additional \$300,000 of stock the company reports capital expenditures, made and estimated up to December 31, 1924, of \$562,373.24 against which no stock or bonds have been issued. The expenditures are reported as follows:

of capital expenditures over capital receipts as reported to the road Commission under Decision No. 14394, Application No. 11 (all authorized stocks and bonds having been sold), covering rd of construction expenditures up to October 31, 1924-----	\$35,284 43
l expenditure from November 1, 1924, to March 31, 1925-----	211,672 89

ment in process of installation:

omatic central office equipment at San Bernardino per contract, ith extras -----	195,629 20
onal switchboard units No. 66600, 66700, 66800, 66900 at Long ch as billed by Automatic Electric Company, March 13, 1925-----	19,786 72
ment and material ordered for future delivery and estimated uirements of cable, telephones, drop wires, etc., with estimated st of installation up to December 31, 1925-----	100,000 00
Total -----	\$562,373 24

On April 11, 1924, the company entered into a contract with Auto-
matic Electric Company of Illinois, covering the purchase and installa-
tion of central office automatic telephone equipment to replace the
annual equipment at San Bernardino. The contract price was
194,532.99, but with miscellaneous extra charges the actual cost has
mounted to \$195,629.20. The installation has been completed subse-
quent to the filing of the application. Of the total cost, \$110,000 has
been paid, leaving a balance of \$85,629.20 which is due thirty days
after acceptance of the equipment by applicant. Other cash require-
ments of applicant are reported to consist of \$30,000 due First National
Bank of Long Beach, \$19,786.72 due Automatic Electric Company for
the purchase of additional switchboard units at Long Beach, \$3,994.83
due Kellogg Switchboard and Supply Company for miscellaneous addi-
tions and betterments, \$100,000 for additions and betterments which it
is estimated will be installed during the remainder of the year, and
\$172,000 payable to the depreciation fund, the total cash requirements
to be met in part with proceeds from the sale of stock aggregating
\$411,410.75. The \$172,000 payable to the depreciation fund, represents
amounts borrowed from the fund, under authority received from the
Commission, and used for the purchase of additions and betterments.
It is of record, however, that not all of this amount is payable, or will
be paid this year.

ORDER.

Associated Telephone Company having applied to the Railroad Com-
mission for permission to issue and sell \$300,000 of stock, a public
hearing having been held before Examiner Williams, and the Railroad
Commission being of the opinion that the money, property or labor
to be procured or paid for by such issue and sale is reasonably required
for the purposes specified herein and that the expenditures for such
purposes are not in whole or in part reasonably chargeable to operating
expense or to income;

It is hereby ordered, that Associated Telephone Company be and it
hereby is authorized to issue and sell, on or before April 30, 1926, at

not less than par, 3000 shares of its common capital stock of the aggregate par value of \$300,000, and to use the proceeds to reimburse its treasury, pay indebtedness and finance in part the cost of the extensions, additions and betterments to which reference is made in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

1. Only such expenditures as are properly chargeable to capital accounts under the uniform system of accounts prescribed or adopted by the Railroad Commission may be financed with the proceeds to be received from the stock herein authorized to be issued and sold.

2. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this twenty-first day of May, 1925.

DECISION No. 14970.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR COACH PASSENGER SERVICE BETWEEN THE INTERSECTION OF WILSHIRE AND SAN VICENTE BOULEVARDS IN THE CITY OF LOS ANGELES AND GARDNER JUNCTION IN THE CITY OF LOS ANGELES VIA WILSHIRE BOULEVARD, CANYON DRIVE AND SUNSET BOULEVARD, OPERATED IN PART THROUGH THE COUNTY OF LOS ANGELES AND CITY OF BEVERLY HILLS, CALIFORNIA.

Application No. 10899.

Decided May 23, 1925.

TRANSPORTATION—MOTOR COACH.—Certificate granted.

1. *W. Cornell and O. A. Smith*, for Applicant.

2. *C. Waltz*, City Attorney, for the City of Beverly Hills.

3. *V. D. Larrabee*, for the Sherman Chamber of Commerce.

JOSE, *Commissioner*.

OPINION.

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity requires the operation by it of an automobile business as a common carrier of passengers over the following route:

Commencing at the intersection of Wilshire and San Vicente boulevards, in the city of Los Angeles, thence along Wilshire boulevard partly in the county

of Los Angeles and partly in the city of Beverly Hills to Canyon drive, thence along Canyon drive in the city of Beverly Hills to Sunset boulevard, thence along Sunset boulevard partly in the city of Beverly Hills, county of Los Angeles and city of Los Angeles to the intersection of Gardner street and Sunset boulevard (Gardner Junction).

The route herein applied for is more fully shown in red color on a ~~ae~~ print map marked "C.E.H.7181" as filed herein as a portion of the application.

By its Decision No. 14715, under date March 27, 1925, the Commission issued its order granting the certificate as herein prayed for. Subsequently upon representations made to the Commission by the board of trustees of the city of Beverly Hills and certain other interested property owners of said city, objecting to the granting of the certificate in so far as it authorized service over the street in the city of Beverly Hills known as Canyon drive, the Commission under date of April 25, 1925, made its order cancelling and annulling Decision No. 14715 and setting the matter for public hearing.

Public hearings on this matter were held at Los Angeles on May 4 and 8, 1925, the matter was duly submitted and is now ready for decision.

Applicant, by stipulation at the hearing, proposes to change its route in the city of Beverly Hills by operating from Sunset boulevard to Santa Monica boulevard via Beverly drive instead of Canyon drive as originally proposed, thence on Santa Monica boulevard passing the rail station of applicant, thence on Canyon drive to Wilshire boulevard, thence on Wilshire boulevard to a terminus at Fairfax avenue instead of San Vicente boulevard as originally proposed. Applicant also stipulated that a service of twenty-minute headway between the hours of 6.20 a.m. and 11.20 p.m. would be established instead of a thirty-minute headway between the hours of 6.30 a.m. and 11.30 p.m. as originally proposed. Applicant also amended the fare schedule by substitution of a revised Exhibit "B," which fare schedule is acceptable to the transportation committee of the city of Beverly Hills. The amendments to the route, the proffered extension from the intersection of Fairfax avenue and Wilshire boulevard instead of a terminal at Wilshire and San Vicente boulevards; the reduction in headway from a thirty-minute to a twenty-minute schedule; and the revised fares as contained in amended Exhibit "B" disposes of all opposition to the establishment of the proposed service.

Applicant relies as justification for the desired certificate upon the following alleged facts:

That there is a genuine need for regular service in the territory proposed to be served and where there is no present authorized service; that the establishment of the proposed line will connect with the rail lines of applicant at the intersection of Wilshire and San Vicente boulevards.

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and at the station of Gardner Junction, which is at the intersection of Gardner street and Sunset boulevard.

Commission is advised of the transportation needs of the territory proposed to be served and the matter was fully covered at hearing of the application of petitioner to abandon and remove track on Sunset boulevard from Gardner Junction westerly to end of line, all in the city of Los Angeles. (Decision No. 14659 on Application No. 10864 as decided March 13, 1925.)

The proposed service will furnish transportation for a rapidly growing district and while commutation fares in connection with the same will not be published, the amended fare schedule of applicant includes for a 46-ride school commutation fare between Foothill road and certain points in Hollywood on the rail lines as follows:

Highland avenue at Hollywood boulevard, or Santa Monica boulevard; Vermont avenue at Hollywood boulevard, or Santa Monica boulevard.

In view of the fact that the proposed automobile bus service herein provided for is in effect a replacement of the rail service heretofore rendered by applicant on its Laurel Canyon line, such rail service having previously been authorized to be suspended by this Commission in its decision No. 13235 on Application No. 9753, as decided March 4, 1924, and in view of the opinion that the fare conditions as existing prior to the above date of the above mentioned decision as regards rates between the former Laurel Canyon rail line and the inner fare zone of the city of Los Angeles should now be restored on the proposed bus line in connection with the rail line of applicant via a connection at Gardner Junction, and the order herein will so provide.

Commend the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and after having been duly submitted and being now ready for decision:

Railroad Commission hereby declares that public convenience and necessity require the operation by applicant, Pacific Electric Railway Company, a corporation, of an automobile stage line as a common carrier of passengers only over and along the following described

Commencing at the intersection of Wilshire boulevard and Fairfax avenue in the city of Los Angeles, thence along Wilshire boulevard, partly in the county of Los Angeles and partly in the city of Beverly Hills, to Canyon drive, thence along Canyon drive in the city of Beverly Hills to Santa Monica boulevard, thence along Santa Monica boulevard to Beverly drive, thence along Beverly drive to Sunset boulevard, thence along Sunset boulevard, partly in the city of Beverly Hills, county of Los Angeles and city of Los Angeles, to the intersection of Gardner street and Sunset boulevard (Gardner Junction).

is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to applicant, Pacific Electric Railway Company, a corporation, for the operation of an automotage line as a common carrier of passengers only over the herein-described route, subject however, to the following conditions:

Applicant is hereby directed to file tariffs covering restoration of service as heretofore existing between the territory served by the Laurel Canyon line and the inner zone of the city of Los Angeles prior to authorized discontinuance of service on said Laurel Canyon line contained in this Commission's Decision No. 13235, on Application No. 9753, as decided March 4, 1924, such rates covering transportation between points on the Laurel Canyon line and the inner zone of the city of Los Angeles with transfer to and from the rail line of the applicant at the station of Gardner Junction.

2. Applicant is hereby required to file its acceptance of the certificate herein granted within five (5) days from the date hereof; and to file its tariffs and time schedules within five (5) days from the date of this order, in accordance with amended Exhibit "B" as filed herein, such tariffs and time schedules to be filed in duplicate and to be in addition to and identical with the tariffs and time schedules as heretofore filed with the supplemental application herein, also in accordance with the Commission's General Order No. 51 and other regulations of the Commission, which in so far as the same are applicable are hereby made a portion of the order herein. Service as herein authorized shall be commenced not later than five (5) days from the date of this order, unless the time for establishing such service is further extended by supplemental order of this Commission.

3. The rights and privileges hereby granted may not be sold, transferred, leased, assigned or hypothecated nor service established hereunder discontinued unless the written authority of this Commission to such sale, transfer, lease, assignment, hypothecation or discontinuance has first been secured.

4. No vehicle may be operated under the authority hereby granted unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to and approved by this Commission.

5. For all purposes, other than hereinabove stated, the effective date of this order is twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of May, 1925.

DECISION No. 14973.

MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS AND STOCK OR NOTES.

Application No. 10947.

Decided May 26, 1925.

BONDS AND STOCKS—To ISSUE.—Application of East Bay Water Company to issue and sell \$7,125,000 of unifying and refunding bonds and \$98,900 of Class "A" 6 per cent cumulative preferred stock, or \$9,500,000, of short-term notes to finance acquisition and construction of a pipe line from Mallard Slough, Sacramento River, Contra Costa County, to applicant's San Pablo reservoir, for the purpose of developing an additional supply of water, decided without prejudice.

WATER SUPPLY—RESPONSIBILITY.—Responsibility for bringing in temporary water supply, pending completion of Mokelumne River project of East Bay Municipal Utilities District, should rest upon district. Authorization of present project would result in duplication of facilities and wasteful expenditure of money, both contrary to public policy, and neither of which are in the public interest.

Walter H. Igerton and A. G. Tasheira, for Applicant.

Gray, for City of Oakland.

J. Locke, for East Bay Municipal Utilities District and City of Alameda.

F. Treadwell, for East Bay Municipal Utilities District.

Wickok, for City of Alameda.

Sinclair and John N. Eddy, for City of Berkeley.

W. H. Hill and J. H. Plate, for City of Richmond.

E. Williams, for City of San Leandro.

W. H. Waser, for City of Albany.

W. H. Wadkins, for Town of Emeryville and Emeryville Industries Association.

W. H. Wadsworth, for City of Piedmont.

Walker, for Oakland Merchants Exchange.

W. Jones, for Oakland Chamber of Commerce.

W. H. Wadler, for Central Oakland Improvement Association.

Miller, *in propria persona*.

Bartlett, *in propria persona*.

COMMISSION.

OPINION.

Bay Water Company asks the Railroad Commission to make an order authorizing the company to issue at a price hereafter to be determined \$7,125,000 of unifying and refunding bonds and \$2,698,900 of "A" 6 per cent cumulative preferred stock, or \$9,500,000 of short-term notes, and use the proceeds from the sale of such bonds and stock or notes, to pay for the acquisition and construction of a pipe line from Mallard Slough, Sacramento River, in Contra Costa County, to the company's San Pablo reservoir, together with the necessary lands, rights of way and all other necessary works and appurtenances.

Commission is also asked to modify Decision No. 14560, dated January 11, 1925, in Application No. 10812, so as to permit the use of the proceeds obtained from the sale of Series "D" bonds and notes to pay expenses incurred in connection with the above

construction until such time as funds become available from the issue and sale of the bonds and stock, or notes, which the Commission is now asked to authorize.

Hearings were had before the Commission *en banc* on April 2d, May 5th, 6th, 7th, 8th and final argument on May 18th. The matter has been submitted and is ready for decision.

It is of record that East Bay Water Company, if permitted to issue the securities referred to, will immediately start the construction of what in this proceeding has been referred to as its Sacramento River project. George H. Wilhelm, chief engineer and general manager of the company, testified that the project contemplates pumping water during the flood period from the Sacramento River at Mallard (opposite Chipps Island, a short distance below the confluence of the Sacramento and San Joaquin rivers) through a pipe line into the company's San Pablo reservoir; that at Mallard the installation will consist of a 60,000,000-gallon daily sump, intake channel and head works, a 60,000,000-gallon daily pump station building, and 60,000,000-gallon daily pump unit with fittings, controls, plant pipe and electrical wiring and installation; that the pipe line will be 21.7 miles long, of which 15.1 miles will be steel pipe and 6.6 miles tunnel. The steel pipe will be 72 inches in diameter and of the capacity of 60,000,000 gallons daily, and that the tunnels will have a capacity of 200,000,000 gallons daily. On account of the limited pumping period, the project, according to Mr. Wilhelm, will produce a minimum of 25,000,000 gallons daily in conjunction with the company's local storage of flood waters. From Mallard the pipe line is to follow a direct routing over and through the hills to the company's Pinole reservoir site, thence through such reservoir site and range of hills to the San Pablo reservoir, where the water would be delivered at an elevation of 320 feet. Necessary additions to the company's San Pablo filter plant would be made to treat the additional water supply. The cost of the project is estimated at \$9,520,057. No money has been expended on the project except for preliminary engineering and investigations.

The company explained that it was, in this proceeding, not proposing a final solution of the water supply problem for the East Bay communities and that the design of its Sacramento River project is such as to care for the needs of those communities for the next few years, and until water from a mountain source can be delivered. The company's representatives urge that this project can be fitted into a Mokelumne or any other northern water supply project with practically no loss of investment. Applicant introduced evidence to show that as pure a water supply can be obtained from the Sacramento River as from any other available source.

the granting of the application is opposed by the East Bay Municipal Utilities District; by the cities of Oakland, Berkeley, Alameda, Richmond, Albany, San Leandro; by the Oakland Chamber of Commerce Merchants Exchange of Oakland and the Oakland Labor Council; the Alameda Chamber of Commerce; by the Downtown Properties Association of Oakland; and by other civic improvement clubs and organizations.

The East Bay Municipal Utilities District through A. P. Davis, its engineer and general manager, takes the position that the project of the company does not fit into the district's plan to bring in water from the Mokelumne River, that for the district to take over the utilities which the company proposes to construct, would result in a cost of \$4,711,652 to the district and that the construction of the Sacramento River project by the company may make it more difficult, if not entirely impossible, for the district to acquire the company's water production, storage, transmission and distribution properties. He is of the opinion that it is more expensive to treat Sacramento River water than Mokelumne River water, assuming that the latter has been treated, and that in the event of the failure of any link in the distribution process, the communities might be served with a dangerous water, if such water is taken from the Sacramento River. The view we take of this proceeding makes it unnecessary to determine whether Sacramento River water can be so treated as to make it safe for human consumption.

The Commission is called upon in this proceeding to authorize the issue of bonds and stock, or notes, for the purposes above recited. Section 52 of the Public Utilities Act, after defining the purposes for which public utilities may issue stock, bonds, notes or other securities of indebtedness, provides—

That such public utility, in addition to the other requirements of the law, shall first have secured from the Commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied, and that, in the opinion of the Commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order.

The Commission thus by statute is directed to make a finding that money, property or labor to be procured or paid for by the issue of bonds and notes, which applicant now seeks permission to issue, is reasonably required by it. Applicant urges that the communities served by it are risking a water shortage and that such risk would be removed by the construction of its proposed Sacramento River project. Mr. Wilhelm, however, explained that the communities were confronted with any water shortage during 1925, and testified that if—

We had a normal year next year as to rainfall and run-off, we would have no shortage in 1926. If we had an unusual year in 1926-27 with plenty of

rainfall and run-off, we would have no water shortage in the year 1927. The same thing is true for the year 1928. And if you can positively guarantee me that we will have rainfall enough each year to fill San Pablo, Upper San Leandro and Chabot, why, I would say we do not need any additional water supply until probably 1940.

Representatives of the district admit and agree with the company's representatives that an additional water supply should be made available to the East Bay communities as soon as possible. Both Mr. Davis, and Mr. George C. Pardee, president of the East Bay Municipal Utilities District, through their testimony, call attention to the fact that the people of the district, the boundaries of which are substantially coterminous with the territory served by the East Bay Water Company, have, by a large majority, voted in favor of getting an additional water supply from the Mokelumne River, and have voted bonds for that purpose. Both testified that if for any reason a water shortage should develop, the district would be able to take care of the situation, by constructing the western division of its Mokelumne project and bring water into the district from the San Joaquin River.

Quoting from the testimony of Mr. Pardee:

Commissioner Brundige: It is the policy of the district to take care of the temporary supply, if the temporary supply is found to be necessary?

Mr. Pardee: I think we can go further than that, Mr. Commissioner, and say this: That the district is going to immediately proceed to bring in its conduits and its tunnels, and if necessary, a pipe line over the hills without the tunnels, from the San Joaquin—first thing it is going to do—even though there be no immediate pressing necessity for it, on the ground that possibly, printed in very small type, agate type, possibly there may be an imminent famine next year. Having that in mind, the district is going to do everything they can to avoid such possibility.

Commissioner Brundige: And if, when this water shortage occurs, if it ever does occur, and that time is prior to the taking over of the distributing plant, you would still go ahead with your plans?

Mr. Pardee: Yes.

Commissioner Brundige: You would still bring in the water and be in position to sell water, even if you had to turn it into the reservoirs of the East Bay Water Company for distribution to the inhabitants of the East Bay district?

Mr. Pardee: Surely.

Commissioner Brundige: And you have no doubt of the ability of the district to perform exactly that service?

Mr. Pardee: None whatever.

Commissioner Brundige: And you could do exactly that thing?

Mr. Pardee: Exactly that thing.

Commissioner Brundige: You assume full responsibility for that?

Mr. Pardee: Entirely; representing the people of the district, we do.

The record in this case is not such as to enable the Commission to make the finding that it is required to do by section 52 of the Public Utilities Act. On the contrary, we are confronted by evidence showing that another agency, the East Bay Municipal Utilities District, has been created and directed by the majority of the voters of such district to bring in an additional water supply, and unequivocally asserts not only its willingness and desire, but also its ability to bring in a temporary supply of water pending the completion of the district's Mokelumne project, if and when it shall appear that such temporary supply

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essary. It seems clear, therefore, that the responsibility for bringing a temporary supply of water, pending the completion of the Lumne River project, should rest upon the district, that the record proves the willingness of the district to assume such responsibility, as well as the desire of the people residing in the district to hold the district responsible for providing such supply. To authorize the district to issue bonds and stock, or notes, under the circumstances disclosed by the record in this proceeding would, we feel, result in a multiplication of facilities and of wasteful expenditure of money, both of which are contrary to public policy, and neither of which are in the public interest.

We believe that this application should be denied without prejudice.

ORDER.

The Bay Water Company, having applied to the Railroad Commission for permission to issue bonds and stock, or notes, a public hearing has been held and the Railroad Commission being of the opinion for the reasons set forth in the opinion which precedes this order, this application should be denied without prejudice.

It is hereby ordered, that the application referred to herein be and the same is hereby denied without prejudice.

Witness my hand at San Francisco, California, this twenty-sixth day of May,

DECISION No. 14974.

THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ITS SERIES "I" BONDS IN THE AMOUNT OF TWO MILLION NINE HUNDRED FIFTY-TWO THOUSAND DOLLARS PAR VALUE.

Application No. 11134.

Decided May 26, 1925.

LOS ANGELES GAS AND ELECTRIC CORPORATION—BONDS—To Issue.—Application granted. *For* Applicant.

COMMISSION.

OPINION.

The Railroad Commission is asked to make an order authorizing Los Angeles Gas and Electric Corporation to issue and sell at 95½ per cent value and accrued interest, \$2,952,000 of its Series "I" general underlying mortgage gold bonds to be dated October 1, 1924, to be due October 1, 1949, and to bear interest at 5½ per cent per annum. The company in its Exhibit "D" estimates that during 1925 it will be required to expend for additions and extensions to plants, proper-

ties and equipment the net sum of \$11,989,512. This estimated expenditure is segregated by applicant as follows:

Gas works, including two one million cubic feet per hour each compressors and one 15 million cubic-foot holder, together with auxiliary equipment and buildings -----	\$1,340,605 00
Electric works:	
Alameda street station -----	\$175,860 00
Seal Beach station -----	2,570,000 00
	<hr/> 2,745,860 00
Gas distributing system -----	3,438,610 00
Including 200 miles commercial mains;	
34 miles pressure mains;	
25,000 gas services;	
40,000 gas meters;	
35,000 gas regulators.	
Electric transmission line from Seal Beach station, together with step-down substation -----	1,000,000 00
Electric distributing system, including new office, shop and garage building, together with substations, transformers, 20,000 electric services and 24,800 electric meters -----	2,757,769 00
Miscellaneous -----	62,068 00
Overhead expense -----	644,600 00
	<hr/>
Grand total estimated net increase in capital accounts -----	\$11,989,512 00

The company expects to finance its net capital expenditures during 1925 in the following manner:

From sale of Series "I" bonds authorized by Decision No. 14186, dated October 20, 1924:	
Total \$6,000,000 at 93 -----	\$5,580,000 00
Used for 1924 plant additions, approximately ----	3,380,000 00
	<hr/>
	\$2,200,000 00
Estimated receipts during 1925 from sale of preferred stock heretofore authorized -----	5,150,000 00
From surplus and depreciation reserve -----	1,820,352 00
From sale of an additional \$2,952,000 of Series "I" bonds at 95½, for the authorization of which this application is made -----	2,819,160 00
	<hr/>
Total -----	\$11,989,512 00

It is of record that the company has heretofore expended the sum of \$4,635,474.87 (Applicant's Exhibit "C"), which amount has heretofore not been used as the basis for the issue of bonds. This expenditure has been financed through the issue of stock or the investment of surplus earnings or moneys represented by the reserve for accrued depreciation. Applicant's controller, W. E. Houghton, is of the opinion that within the near future it will be necessary for the company to draw upon proceeds obtained from the sale of the bonds herein authorized, to finance construction expenditures incurred during the current year.

Applicant has entered into an arrangement with Bond and Goodwin and Tucker for the sale of the \$2,952,000 of bonds at 95½ and accrued interest. In the event that the bonds are sold by the purchaser for more than 99 and accrued interest, the company will receive such addi-

ial amount as may represent the difference between the offering price
l 99 and accrued interest.

ORDER.

Los Angeles Gas and Electric Corporation having applied to the
Railroad Commission for permission to issue \$2,952,000 of its bonds, a
public hearing having been held before Examiner Fankhauser and the
Railroad Commission being of the opinion that the money, property
labor to be procured or paid for by the issue of such bonds, is reason-
ably required by applicant, and that the expenditures herein authorized
not in whole or in part reasonably chargeable to operating expenses
to income and that this application should be granted, as herein
provided; therefore

It is hereby ordered, that the Los Angeles Gas and Electric Corpora-
tion be and it is hereby authorized to issue and sell on or before Septem-
ber 1, 1925, for cash, at not less than 95½ per cent of their face value
plus accrued interest, \$2,952,000 of its Series "I" general and refund-
mortgage 5½ per cent gold bonds to be dated October 1, 1924, and
be payable October 1, 1949, and use the proceeds, other than accrued
interest, obtained from the sale of such bonds to reimburse its treasury
out of income not obtained from the sale of bonds or stock expended

for additions and extensions to plants, properties and equipment
described in Exhibit "C," and to finance the cost of additions and
extensions to plants, properties and equipment referred to in Exhibit
"C," provided that only such expenditures referred to in said Exhibits
"C" and "D" as are properly chargeable to fixed capital account,

under the uniform system of accounts prescribed by the Railroad Com-
mission, may be financed through the issue of the bonds herein author-
ized. The accrued interest may be used for general corporate purposes.
It is hereby further ordered, that Los Angeles Gas and Electric
Corporation shall keep such record of the issue, sale and delivery of

bonds herein authorized, and of the disposition of the proceeds as
to enable it to file on or before the twenty-fifth day of each month a
verified report, as required by the Railroad Commission's General
Order No. 24, which order, in so far as applicable, is made a part of
this order.

It is hereby further ordered, that the authority herein granted will
become effective when applicant has paid the fee prescribed by section
of the Public Utilities Act, which fee is \$1,976.

Dated at San Francisco, California, this twenty-sixth day of May,
1925.

DECISION No. 14975.

IN THE MATTER OF THE APPLICATION OF TUNNELS TRANSPORTATION COMPANY FOR AUTHORITY TO ISSUE STOCKS, BONDS, NOTES OR OTHER EVIDENCES OF INDEBTEDNESS.

Application No. 10969.

Decided May 27, 1925.

SECURITIES—STOCKS AND BONDS—To ISSUE—AUTOMATIC PASSENGER CONVEYORS.—
Application dismissed.

JURISDICTION.—Applicant not considered a public utility, nor a common carrier, as defined by Public Utilities Act.

W. C. Hodges and F. A. Lorentz, for Tunnels Transportation Company.

DECOTO, *Commissioner*.

OPINION.

This is an application to issue stocks and other evidences of indebtedness, bonds and notes, by the Tunnels Transportation Company, a company recently formed under the laws of the State of California and endowed with the power to engage in the transportation business in cities throughout the State of California by means of continuous automatic passenger conveyors, which may be roughly described as consisting of an endless chain of chairs propelled by means of electric motors, attached to every fourth chair. This company is contemplating the immediate installation of a subtunnel equipped with the automatic passenger conveyor under the existing Second street tunnel in the city of Los Angeles, said tunnel lying between Hill and Figueroa streets, and the future installation of a similar structure under the Third street tunnel, between Hill and Flower streets.

The jurisdiction of the Railroad Commission over the issuance of securities by the public utilities is purely statutory and such jurisdiction is given by section 52 of the Public Utilities Act. This section limits the jurisdiction of the Railroad Commission over the issuance of securities to stock, stock certificates, bonds and notes and other evidences of indebtedness of "public utilities."

Section 52 of the Public Utilities Act must be read in the light of section 23, article XII of the constitution of California. In so far as that section of the constitution applies to the present applicant, it reads:

Every private corporation * * * operating * * * a street railroad * * * or equipment within this state for the transportation or conveyance of passengers * * * and every common carrier is hereby declared to be a public utility, subject to such control and regulation by the Railroad Commission as may be provided by the legislature * * *.

It is evident that the legislature could, under this provision, grant the Railroad Commission jurisdiction over such means of transportation as the Tunnels Transportation Company proposes as it is "equipment * * * for the transportation or conveyance of passengers," it seems, however, equally clear that the legislature has not done so. The extent of the jurisdiction granted to the Commission by the legislature is found in and measured by section 2 of the Public Utilities Act, subdivision (dd), which provides as follows:

The term "public utility," when used in this act, includes every common carrier, line, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger, warehouseman and heat corporation, where the service is performed for or the commodity delivered to the public or any person thereof * * *.

This definition of public utilities omits some of these utilities mentioned in the constitutional provision and among them "equipment * * * for the transportation or conveyance of passengers" under which the proposed plan of operation could alone be classified. Among those public utilities designated in the Public Utilities Act there is found nothing which would include the company making the present application, unless this company could be defined as a common carrier. The term common carrier has been defined in section 2, subdivision (dd) of the Public Utilities Act as follows:

The term "common carrier," when used in this act, includes every railroad corporation; street railroad corporation; express corporation; dispatch, sleeping car, baggage car, drawing-room car, freight, freight-line, refrigerator, oil, stock, fruit, car, car loading, car renting, car loading and every other car corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state; and every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any vessel engaged in the transportation of persons or property for compensation between points upon the inland waters of this state, or partly engaged in the transportation of persons or property for compensation upon the high seas on regular routes between points within this state. The term "inland waters" as used in this subsection includes all navigable waters within the State of California other than the high seas.

The only portion of this section, which could possibly apply to the present company is "street railroad corporations," but the definition of street railroad is so well settled that the present applicant can not claim any interpretation of the words be included within their meaning. See *Oxham vs. Consumers Electric Light, etc. Co.*, 36 Fla. 539; 51 Am. Rep. 44; *Board of Railroad Commissioners vs. Market Street Railway Company*, 132 Cal. 683; Public Utilities Act, Sec. 2, subdivisions (dd) and (h).

We are, therefore, of the opinion that the applicant is neither "a public utility," nor a "common carrier," as defined by the Public Utilities Act and that this Commission has no jurisdiction over the application by it of stock, stock certificates, bonds, notes or other evidences of indebtedness.

ORDER.

It appearing from the opinion immediately hereinabove set forth that the Railroad Commission of the State of California has no jurisdiction over the issuance of stocks, bonds or other evidences of indebtedness of the Tunnels Transportation Company, the application of said Tunnels Transportation Company is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of May, 1925.

DECISION No. 14979.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL SEVEN MILLION DOLLARS FACE AMOUNT OF SERIES "D" FIRST AND REFUNDING MORTGAGE BONDS.

Application No. 11111.

Decided May 27, 1925.

SECURITIES—BONDS—To ISSUE.—Application granted.

Guy C. Earl and Chaffee E. Hall, by Chaffee E. Hall, for Applicant.

DECOTO, *Commissioner.*

OPINION.

In this application Great Western Power Company of California asks permission to issue and sell, at 94 per cent of face value plus accrued interest, \$7,000,000 of its Series "D" first and refunding mortgage 5½ per cent bonds due February 1, 1955, and to use the proceeds to refund outstanding 7 per cent first and refunding bonds.

As of December 31, 1924, applicant reported its outstanding bonded indebtedness as follows:

First and refunding bonds:

Series "A" 6s due 1949.....	\$6,000,000	
Series "B" 7s due 1950.....	7,535,300	
Series "C" 6s due 1952.....	6,000,000	
		\$19,535,300
Great Western Power 5s due 1946.....		20,135,000
City Electric 5s due 1937.....		1,161,000
Consolidated Electric 5s due 1955.....		1,540,950
Central Oakland Light and Power 5s due 1939.....		48,000
Consumers' Light and Power 6s due 1933.....		68,000
Debentures, 6s due 1925.....		4,177,600
Total		\$46,665,850

Of the \$7,535,300 of Series "B" first and refunding mortgage bonds, \$212,000 are held by Western Power Corporation, \$112,700 are alive in the sinking fund and \$7,210,600 are outstanding in the hands of the

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public. It appears that applicant proposes to purchase the \$212,000 of bonds from Western Power Corporation for \$218,300, the price paid by Western Power Corporation, and to call the remaining \$7,323,300 for redemption on August 1, 1925, at 110, a price requiring the expenditure of \$8,055,630. Adding the \$8,055,630 to the \$218,300 results in a total of \$8,273,930 which represents the amount of cash necessary to redeem the outstanding \$7,535,300 of Series "B" bonds.

The company has entered into agreements for the sale of \$7,000,000 of the Series "D" bonds at 94, netting \$6,580,000. Deducting the \$6,580,000 from the total cash requirement of \$8,273,930 leaves a balance of \$1,693,930. It is of record that the \$1,693,930 will be withdrawn from the company's treasury and that such moneys were not obtained from the sale of stock or bonds. It was suggested that at a later date, the company may file an application for permission to issue stock or bonds to reimburse its treasury on account of the withdrawal of \$1,693,930. Whether such reimbursement should be allowed will be determined at the time an application is filed for permission to issue stock and bonds for such purpose.

I herewith submit the following form of order:

ORDER.

Great Western Power Company of California having applied to the Railroad Commission for permission to issue and sell \$7,000,000 of bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale of bonds, is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Great Western Power Company of California be and it hereby is authorized to issue and sell on or before October 1, 1925, at not less than 94 per cent of their face value plus accrued interest, \$7,000,000 of its Series "D" first and refunding mortgage 5½ per cent bonds due February 1, 1955, and to use the proceeds other than accrued interest to refund in part the outstanding \$7,535,300 of Series "B" first and refunding mortgage 7 per cent bonds to which reference is made in the foregoing opinion. The accrued interest may be used for general corporate purposes.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General

Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted shall become effective upon the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of May, 1925.

DECISION No. 14980.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE AND SELL TO THE NATIONAL CITY COMPANY (A NEW YORK CORPORATION) TEN MILLION DOLLARS FACE AMOUNT OF APPLICANT'S FIRST AND REFUNDING MORTGAGE GOLD BONDS OF SERIES "D."

Application No. 11142.

Decided May 27, 1925.

SECURITIES—BONDS—To ISSUE.—Application granted.

Wm. B. Bosley and C. P. Cutten, for Applicant.

DECOTO, Commissioner.

OPINION.

Pacific Gas and Electric Company asks permission to issue and sell at 91 per cent of their face value and accrued interest, \$10,000,000 of its first and refunding Series "D" 5 per cent bonds to be dated June 1, 1925, and payable June 1, 1955, and use the proceeds obtained from the sale of such bonds to finance construction expenditures to which reference will be made.

Applicant refers to and incorporates in its application its construction program submitted to the Commission in connection with Application No. 10682, filed on December 16, 1924. In that proceeding, as well as in this proceeding, reference is made to a construction program calling for an expenditure of \$33,552,317.63.

The \$33,552,317.63 is segregated by applicant as follows:

Unreimbursed capital expenditures at September 30, 1924, of Pacific Gas and Electric Company and Mount Shasta Power Corporation (Exhibit "B," Application No. 10682)-----	\$9,641,985 52
Unexpended balance of capital expenditures authorized at September 30, 1924, by Pacific Gas and Electric Company (Exhibits "C" and "C-1," Application No. 10682)-----	10,448,701 84
Estimated cost of new construction, Pacific Gas and Electric Company for 1924 and 1925 (Exhibit "D," Application No. 10682)-----	6,000,000 00
Unexpended balance of capital expenditures authorized at September 30, 1924, by Mount Shasta Power Corporation (Exhibit "E," Application No. 10682)-----	7,461,630 27
	<u>\$33,552,317 63</u>

The Commission by Decision No. 14409, dated December 27, 1924, in Application No. 10682, authorized the Pacific Gas and Electric Company to use \$15,698,963.24 obtained from the sale of bonds and stock, the issue of which was theretofore authorized, to pay in part the construction expenditures to which reference has been made. Since December 27, 1924, the Commission has authorized the company to issue at par \$143,000 of common stock, and \$2,357,000 of common stock at not less than \$104 per share. Assuming that the \$2,500,000 of common stock is sold by the company at the minimum prices fixed by the Commission, the company will realize from the sale thereof \$2,594,280. Adding the \$2,594,280 to the \$15,698,963.24 makes a total of \$18,293,243.24. Deducting the \$18,293,243.24 from the \$33,552,317.63, leaves an actual or estimated construction expenditure of \$15,259,074.39, against which the Commission has not authorized the issue of any bonds or stock. It is for the purpose of paying in part for such construction expenditures that applicant asks permission to issue and sell \$10,000,000 of its first and refunding bonds.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company, having applied to the Railroad Commission for permission to issue \$10,000,000 of its first and refunding bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such bonds is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and sell on or before October 1, 1925, at not less than 91 per cent of their face value and accrued interest, \$10,000,000 of its first and refunding Series "D" 5 per cent bonds to be dated June 1, 1925, and payable June 1, 1955, and use the proceeds, other than accrued interest, obtained from the sale of such bonds, to pay in part the cost of extensions, additions, betterments and improvements to applicant's facilities and to those of Mount Shasta Power Corporation described in Exhibit "C," "C-1," "D" and "E" attached to Application No. 10682, provided that only such cost as is properly chargeable to fixed capital account under the uniform system of accounts prescribed or adopted by the Railroad Commission may be paid through the use of the proceeds obtained from the sale of said bonds. The accrued interest may be used by Pacific Gas and Electric Company for general corporate purposes.

It is hereby further ordered, that Pacific Gas and Electric Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted will become effective when Pacific Gas and Electric Company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$5,500.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of May, 1925.

DECISION No. 14982.

IN THE MATTER OF THE APPLICATION OF E. N. ROBINSON FOR A
CERTIFICATE OF PUBLIC NECESSITY AND CONVENIENCE TO
OPERATE AND MAINTAIN A WATER PLANT AND SYSTEM.

Application No. 10655.

Decided May 28, 1925.

CERTIFICATE—WATER UTILITY.—Rates established.

Howard Robertson, for Applicant.

H. T. Robinson, for Ocean Park Heights Land and Water Company.

C. H. Vick, for Consumers.

BY THE COMMISSION.

OPINION.

In the above entitled application E. N. Robinson asks for a certificate of public convenience and necessity for the operation of a public utility water system for domestic purposes in Tract No. 3901, Los Angeles County.

A public hearing was held in this matter before Examiner Williams at Los Angeles, after due notice thereof had been given so that all interested parties might appear and be heard.

This water system was installed to aid in the sale of lots in Tract No. 3901, Los Angeles County. Water is pumped from wells into a storage tank of 28,000 gallons capacity, from which it is distributed by gravity to the consumers.

The Ocean Park Heights Land and Water Company, a utility serving water in adjacent territory, objected to the granting of this application upon the ground that it holds a county franchise covering the service

to this tract. The evidence shows that this company does not now and at no time in the past has it ever furnished water to any part of Tract No. 3901. The evidence moreover shows that the water system now owned by applicant herein was installed and in operation prior to the date of the franchise owned by the Ocean Park Heights Land and Water Company and also prior to the dedication of the streets in said tract, making unnecessary the securing by applicant of a franchise from the county authorities. Ocean Park Heights Land and Water Company is not willing even now to serve this tract, except upon the consideration of a bonus in excess of \$7,000 paid to it, in addition to demanding as a gift the existing system now supplying the tract. Neither applicant nor his consumers are willing or able to accept the conditions proposed by this company for the acquisition of this system.

A number of the consumers complained of the quality of the water and service rendered, while others expressed themselves as being entirely satisfied. The testimony of the consumers indicates that the water is hard and has an offensive taste and odor, although the reports of the Los Angeles County Department of Health, submitted at the hearing, show that the water is entirely safe for domestic use from a sanitary standpoint. The consumers' testimony also shows that the service rendered is not entirely satisfactory, in that the pressure ranges from eight to ten pounds and that the pipe lines are in such condition as to need constant repairs.

Because of the many conflicting interests involved in this proceeding, several hearings were held and many postponements granted in order to permit the working out of a suitable plan for the solution of the water supply problems of this district which would be acceptable to all. However, these negotiations failed to produce any practicable results and it appears therefore that as no other supply is available within the economic means of applicant or of the consumers, public necessity demands that this application be granted. Applicant is urged to obtain, if possible, a more desirable water supply for domestic use, and at the earliest moment that finances will permit, the tank should be raised to a sufficient elevation to increase the pressure and insure adequate service to the consumers.

The proposed rate schedule submitted by applicant is not unreasonable considering all of the circumstances, and will be authorized in the following order:

ORDER.

Application having been made as entitled above, a public hearing having been held thereon, the matter having been duly submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that E. N. Robinson construct and operate a water system for the purpose of supplying water for domestic uses in Tract No. 3901, Los Angeles County; therefore,

It is hereby ordered, that E. N. Robinson be and he is hereby authorized and directed to file with the Railroad Commission of the State of California, within twenty (20) days from the date of this order, the following schedule of rates to be charged for all service rendered subsequent to May 31, 1925:

Monthly Flat Rates.

For residence of five rooms or less.....	\$1 50
For each additional room over five.....	10
For each garage and one automobile.....	25
For each additional automobile.....	15
For each barn with not more than one horse or cow.....	25
For each additional horse or cow.....	15
Sprinkling or irrigating lawns or gardens, for each month during which water is used, per 100 square feet of surface irrigated.....	05
Stores and shops.....	1 50
Soda fountains, either alone or in connection with other business.....	1 50
All other use to be charged for at meter rates.	

Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility, the entire cost shall be borne by the utility. If installed at the request of the consumer, the cost of meter and installation shall be advanced by the consumer to the utility, and the moneys so advanced shall be refunded to the depositor as credits on monthly bills for water furnished, at the rate of thirty (30) per cent of the total amount of monthly bills.

Meter Rates.

Monthly minimum charges—

$\frac{5}{8}$ -inch meter	\$1 50
$\frac{3}{4}$ -inch meter	2 00
1-inch meter	3 00
1 $\frac{1}{4}$ -inch meter	5 00
2-inch meter	7 50
3-inch meter	10 00

Monthly meter rates—

800 cubic feet or less.....	1 50
All over 800 cubic feet, per 100 cubic feet.....	08

It is hereby further ordered, that E. N. Robinson be and he is hereby directed to file with the Railroad Commission, within thirty (30) days from the date of this order, for its approval, rules and regulations governing the distribution of water to his consumers, said rules to become effective upon their approval by this Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twenty-eighth day of May, 1925,

DECISION No. 14993.

IN THE MATTER OF THE APPLICATION OF LAKE TAHOE RAILWAY AND TRANSPORTATION COMPANY AND SOUTHERN PACIFIC COMPANY FOR AUTHORITY FOR LAKE TAHOE RAILWAY AND TRANSPORTATION COMPANY TO EXECUTE A LEASE TO SOUTHERN PACIFIC COMPANY OF ITS RAILROAD AND APPURTENANCES PURSUANT TO SECTION 51 (a) OF THE PUBLIC UTILITIES ACT.

Application No. 11155.

Decided June 3, 1925.

TRANSFER—STEAM RAILROAD.—Lease of Lake Tahoe Railway and Transportation Company's railroad and appurtenances for a period of 99 years by Southern Pacific Company authorized.

E. J. Foulds, for Southern Pacific Company.

H. F. Droste, for Lake Tahoe Railway and Transportation Company.

SQUIRES, Commissioner.

OPINION.

Lake Tahoe Railway and Transportation Company, a corporation, and Southern Pacific Company, a corporation, filed the above entitled application with the Commission on the twenty-sixth day of May, 1925, asking for authority for Lake Tahoe Railway and Transportation Company to execute a lease to Southern Pacific Company of its railroad and appurtenances from Truckee, Nevada County, to Tahoe Tavern and Tahoe City, Placer County, California.

A public hearing was held on this application in San Francisco on June 1, 1925.

The railroad owned by Lake Tahoe Railway and Transportation Company connects with Southern Pacific Company's main line (Ogden Route) at Truckee and operates to Tahoe Tavern. This railroad is at present constructed with a three-foot gauge, thereby making it necessary for all passengers, mail, express and freight to be transferred. Approximately 7500 passengers and 176 cars of freight are transferred from the standard (4 feet 8½ inches) gauge main line of the Southern Pacific to the narrow gauge at Truckee each year. During the summer season, about three tons of mail, express and baggage are transferred each trip.

The lease which the parties propose to execute provides for a term of 99 years, at a nominal rental, of the railroad facilities of the Lake Tahoe Railway and Transportation Company to Southern Pacific Company, which company will not only bear all cost of maintenance and operation but will also bear the entire cost of all improvement to the line, including its reconstruction from a narrow gauge to a standard-gauge railroad.

Southern Pacific Company proposes to reconstruct this line with standard gauge so that its trains can operate through to Tahoe Tavern, thereby removing the objectionable transfer and reducing the delay to passengers and freight at Truckee. This work of reconstructing the line to a standard-gauge railroad can be done, it is estimated, within sixty days after the necessary authority for the lease is obtained and traffic will not be interrupted while that work is being done.

Southern Pacific Company further proposes to operate the railway to Tahoe throughout the entire year, instead of only in the summer months, and this line in effect will be operated as a branch line and a part of the Southern Pacific system.

The traveling public will be better served when this line is made standard gauge and through service is inaugurated. It appears, therefore, that this application should be granted.

The following form of order is recommended:

ORDER.

Lake Tahoe Railway and Transportation Company and Southern Pacific Company having applied to the Commission for permission for Lake Tahoe Railway and Transportation Company to execute a lease to Southern Pacific Company of its railroad between Truckee, Nevada County, and Tahoe Tavern and Tahoe City, Placer County, State of California, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that permission and authority be and it is hereby granted to Lake Tahoe Railway and Transportation Company to lease to Southern Pacific Company its railroad and appurtenances between Truckee, Nevada County, and Tahoe Tavern and Tahoe City, Placer County, State of California, as shown by the map (Exhibit 5) attached to the application, subject to the following conditions:

(1) Within thirty (30) days after the execution thereof, a certified copy of each lease referred to above shall be filed with the Commission.

(2) The granting of this application shall not be construed to give permission to the applicants to relocate existing tracks or construct new tracks across any public streets, roads or highway.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

For all other purposes the effective date of this order shall be twenty (20) days after the date thereof.

Dated at San Francisco, California, this third day of June, 1925.

DECISION No. 14995.

IN THE MATTER OF THE APPLICATION OF THE CITY OF SOUTH SAN FRANCISCO FOR A GRADE CROSSING AT ORANGE AVENUE AND THIRD STREET IN SAID CITY.

Application No. 10110.

Decided June 3, 1925.

GRADE CROSSING—STEAM RAILROAD.—At Orange avenue and Third street, South San Francisco, authorized.

John F. Davis, for Applicant.

F. W. Mielke, for Southern Pacific Company.

I. R. Dains, for Market Street Railway.

SQUIRES, Commissioner.

OPINION ON REHEARING.

This application was heard at South San Francisco on August 4, 1924, and in Decision No. 14036, the Commission, after a careful review of the evidence, denied it on the ground that conclusive evidence of public necessity had not been produced. Subsequently, on September 25, 1924, the applicant asked for a rehearing, stating that it was now prepared to offer testimony showing that there is an actual and immediate necessity for favorable action on its petition. Thereafter on November 1, 1924, the Commission ordered a rehearing, and after several postponements at the request of the applicant, the application was reheard on May 4, 1925, at South San Francisco, when considerable testimony, both oral and documentary, was introduced and when the case was finally submitted.

In its petition the applicant requests permission to construct grade crossings over the double track line of the Market Street Railway Company, where it intersects Third street, the Southern Pacific Company's Baden branch and the Southern Pacific Company's Valencia street branch, in order that it may open a street extending Orange avenue in a southwesterly direction to connect Third street with a subdivision formerly called Baden but now designated on the maps as Los Cerritos. The Market Street Railway Company's right of way and that of the Southern Pacific Company's Valencia street branch are adjacent, the latter running along the easterly side of Los Cerritos. The tract of land traversed by the proposed extension of Orange avenue between these tracks and the Southern Pacific's Baden branch is low ground, which is sometimes overflowed during the rainy season, it being the natural outlet to the bay for a large watershed located northwesterly of South San Francisco. At the present time this low ground is overgrown with a dense growth of willows.

According to evidence taken at the former hearing, the city of South San Francisco plans to reclaim this tract by constructing a drainage

channel in which the surface water will be confined, and it was stated that the proposed extension of Orange avenue, in addition to being used as a highway, would act as a levee to check the flow of the surface water in winter and cause the sediment to deposit on the upper side of the roadway. It was stated also that the principal object of the proposed extension was to provide a direct route between the business center of South San Francisco and Los Cerritos, which is a growing territory annexed to the city, but which can now be reached only by circuitous routes via Cypress Lawn Cemetery on the north or San Bruno on the south, a distance in each case of three or four miles, or by certain other more direct route over which streets are at present unimproved and not physically open for travel.

At the previous hearing, it was shown that the city proposed to establish a city park on the low ground, to which reference has been made, adjoining the projected roadway. Owing to the fact, however, that its park plans were in an inchoate condition, the Commission deemed it advisable before establishing the crossings over the three railroad lines in question, to await their maturity. The former record established the fact that a direct connection between the business center of South San Francisco and Los Cerritos constituted in itself a public necessity, owing to the difficulty of reaching that subdivision via streets already open, but which are unimproved, namely, Oak and Chestnut avenues, and the much longer distance via Cypress Lawn and San Bruno, but except for this condition there was not sufficient showing for an order in the former proceeding.

But at the hearing on May 4, 1925, the applicant introduced a great deal of testimony which bears directly upon this question of public convenience. Briefly, this consisted of a deed from the South San Francisco Land and Improvement Company to the city of South San Francisco conveying twenty (20) acres of land adjoining the proposed extension of Orange avenue to be dedicated for a public park. This deed is dated April 27, 1925. Also a resolution of the board of trustees of the city of South San Francisco, accepting the grant and pledging the city to carry out the conditions expressed in the deed and agreeing to levy the necessary taxes for the development of the park. This park when improved will adjoin the extension of Orange avenue on the north and it thereby becomes apparent that public necessity requires a crossing of the Baden branch of the Southern Pacific where it intersects Orange avenue. In no other way could the people of South San Francisco reach the proposed park. Indeed, this was so clear that the representative of the Southern Pacific, at the hearing, withdrew the protest of that corporation to the proposed crossing over the track of the so-called Baden branch. This branch is not now in operation, being

used mainly as a storage track, and there is, therefore, little if any hazard.

The county surveyor of San Mateo County testified that travel via Oak and Chestnut avenues to Los Cerritos on the northwest was at the present time impracticable and that during certain seasons of the year impossible. It was his opinion that if Orange avenue were extended across the railway tracks adjoining Los Cerritos the city would not undertake the improvement of these two avenues for a long time to come, since the distance to Los Cerritos was greater by both of them than by the proposed direct route. The mayor of South San Francisco testified that the city was unanimously in favor of the Orange avenue extension, not only because it would provide direct access to the proposed park, but because it would enable school children in Los Cerritos to reach the high school and grammar school now located in block 96, which adjoins Orange avenue. At present, he added, Los Cerritos is without fire protection by reason of the long distance separating it from the city of South San Francisco. Such protection would be provided if the proposed avenue is opened.

There is located to the west of Los Cerritos 436 acres of land belonging to the California Golf Club. Some of the employees and members of this club reside in South San Francisco, and the president of the club testified that the membership, consisting of about 400, will procure their supplies in the latter city. It is proposed to call this golf club the "Baden Golf Course" and it will represent an investment of \$400,000 exclusive of the individual homes that will be constructed in its vicinity. This witness also testified that the members of the club are unanimously in favor of the extension of Orange avenue.

Evidence was also given by town trustees, real estate men and a representative of the employees of the Pacific Coast Steel Company, located at South San Francisco, all of which was to the same effect. The industrial plants located in the city, one witness testified, represent an annual pay roll of \$6,000,000. Large numbers of the employees of these plants, it was stated, would build their homes on the west side of the city if they had direct access thereto. Mr. Kleemyer, principal of the grammar school, testified that fifteen high school and twenty-four grammar school pupils reside in Los Cerritos, their only means of getting to the school in block 96, South San Francisco, being a street car line over which they are required to pay two fares. He asserted that this greatly interferes with attendance during rainy weather and is more or less a subject of hardship and complaint.

The chief of the fire department testified that it is practically impossible to haul his apparatus via Cypress Lawn and San Bruno and reach a fire in Los Cerritos until the property sought to be saved has been completely destroyed. The proposed extension would shorten the

distance by nearly three miles and would render it possible to give the people of Los Cerritos fire protection. An official of the South San Francisco Land and Improvement Company testified that if Orange avenue is extended across the tracks in question his company would open immediately for subdivision about seventy acres of land, and the manager of the Chamber of Commerce of South San Francisco stated that his body had endorsed the extension on the sole ground that it was the most direct and shortest route to Los Cerritos, the cost of which could be most easily met by the taxpayers. Similar endorsement was made by the president of the South San Francisco Women's Club. Applicant also placed on record a petition from 1283 citizens favoring the proposed extension.

As at the former hearing, the Market Street Railway Company, through its representatives, opposed the establishment of a grade crossing over the tracks of that company at Third street and the proposed extension of Orange avenue on the sole ground that it would create a serious hazard, since the cars of the company in approaching Third street run on a descending grade and at high rates of speed. But it was agreed by the protestants that even if this hazard were such as to seriously interfere with the granting of the crossing permit, it could be largely eliminated by the installation of an automatic flagman. While it is true that there will be some hazard at the crossing proposed, it will be no greater than at hundreds of other crossings where no protection at all is provided. The travel to Los Cerritos for a long time will not be heavy, and the principal of the grammar school stated that the probation officer would see that children were protected whenever they desired to cross to attend school. There was some discussion of an alternative route from Magnolia avenue intersecting a tract of unimproved land lying southerly of Los Cerritos, where a shallow cut renders a grade separation possible. But this line, besides being longer than the proposed extension of Orange avenue, would not accommodate the parking plans of the city and would impose a cost upon the city which its mayor thought it would hesitate to assume.

It is my conclusion, and I so find, that the record shows a clear public necessity for these crossings, one of which is not opposed by the railroad interested. I think that the installation of proper signals at Third street and Orange avenue will reduce the hazard to such a degree as to justify the Commission in granting the petition of the applicants.

The following order, therefore, is recommended:

ORDER ON REHEARING.

City of South San Francisco having filed a petition for rehearing and said rehearing having been held, the Commission being apprised of the fact, and the matter being submitted and ready for decision;

It is hereby ordered, that the Commission's Decision No. 14036, dated September 10, 1924, be and it is hereby vacated and set aside.

It is hereby further ordered, that permission be and it is hereby granted the city of South San Francisco, county of San Mateo, State of California, to construct Orange avenue at grade across tracks of the Baden branch of Southern Pacific Company and at grade across the tracks of the San Bruno branch of Southern Pacific Company and at grade across the tracks of the Market Street Railway Company, in the following described locations:

Beginning at a point which is the intersection of the northerly line of the Southern Pacific Railway Company's right of way, Baden branch, with the center line of Orange avenue produced southerly; running thence south 15 degrees 33 minutes west 50 feet to the southerly line of said Southern Pacific Railway's right of way, Baden branch.

Also, a right of way 60 feet in width, lying 30 feet on either side of the following described center line, in the city of South San Francisco, to wit:

Beginning at a point on the westerly line of the right of way of the Southern Pacific Railway Company's Valencia street branch which point is distant north 63 degrees 39 minutes 30 seconds east 223.4 feet and north 42 degrees 37 minutes 46 seconds east 90 feet from the intersection of the center line of Third (3rd) street with the center line of C street as said streets are shown on that certain map entitled, "Town of Baden, part of the Buri Buri rancho west of the railroad," which map was filed for record in the office of the county recorder of San Mateo County, November 30, 1891, in Vol. E of maps at page 62; running thence from said point of beginning north 42 degrees 37 minutes 46 seconds east 80 feet to the easterly right of way line of said Southern Pacific Railway Company's Valencia street branch.

as shown by the map attached to the original application, said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings shall be borne by applicant. The cost of their maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of each of the crossings of tracks of Southern Pacific Company between lines two (2) feet outside of the outside rails, shall be borne by Southern Pacific Company. The maintenance of that portion of the crossing of the tracks of Market Street Railway Company between lines two feet outside of the outside rails shall be borne by the Market Street Railway Company. No portion of the cost herein assessed to the applicant for the construction or maintenance of said crossing shall be assessed by applicant in any manner whatsoever to the operative property of Southern Pacific Company and Market Street Railway Company, or either of them.

(2) The crossings shall be constructed of a width not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the respective railroads and with grades of approach not greater than four (4) per cent; shall each be protected by suitable crossing signs and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) An automatic flagman shall be installed for the protection of the crossings of the San Bruno branch of Southern Pacific Company and

the crossing of the tracks of the Market Street Railway at the sole expense of applicant. Said automatic flagman shall be of the type and installed in accordance with plans or data approved by this Commission. The maintenance of said automatic flagman shall be borne fifty (50) per cent by Southern Pacific Company and fifty (50) per cent by Market Street Railway Company.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(5) If said crossings shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of June, 1925.

DECISION No. 14996.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO AND SAN JOSE FRUIT AND PRODUCE TRANSFER COMPANY, A CORPORATION, FOR PERMISSION TO ACQUIRE OPERATING RIGHTS IN AN AUTOMOBILE FREIGHT LINE OPERATED BETWEEN SAN FRANCISCO AND SAN JOSE AND WAY POINTS, AND FOR PERMISSION TO ISSUE STOCK.

Application No. 11098.

Decided June 3, 1925.

TRANSFER—AUTO STAGES—STOCK TO ISSUE.—San Francisco and San Jose Fruit and Produce Transfer Company authorized to purchase operative rights of S. D. Schivo, August Schivo and John F. Corriea, and to issue stock in payment therefor.

Fred L. Drcher, by *J. Ed. McClellan*, for Applicant.

DECOTO, Commissioner.

OPINION.

In the above entitled matter the Railroad Commission is asked to make an order authorizing the transfer of certain properties and operative rights, to which reference is hereinafter made, from S. D.

Schivo, August Schivo and John F. Corriea, to San Francisco and San Jose Fruit and Produce Transfer Company, a corporation, and the issue by the corporation of \$42,000 of its common capital stock.

The operative rights are those acquired by S. D. Schivo, August Schivo and John F. Corriea, copartners, by reason of having operated prior to the effective date of the Auto Stage and Truck Transportation Act and also under authority granted by the Commission by Decision No. 11657, dated February 13, 1923, as amended by Decision No. 11982, dated April 27, 1923, in Application No. 8435. It appears that the copartners on or before May 1, 1917, commenced operating auto trucks for the transportation of fruits, vegetables and farm produce between San Francisco and San Jose and way points. Thereafter, by the decisions to which reference has been made, they were granted the right to operate auto trucks as common carriers of fruits, vegetables and produce from Redwood City to commission houses and canneries located in and about the city of Oakland, serving as intermediate points Menlo Park, Palo Alto, Mayfield, Los Altos and shipping points located within a radius of three miles on either side of the highway to the points mentioned, with the restriction that no fruits, vegetables or produce could be handled from Mountain View or points east thereof to Oakland or from Mountain View, Sunnyvale, Santa Clara, San Jose, Alviso, Milpitas, or any points intermediate thereto, to Oakland.

The record shows that on or about September 29, 1923, the copartners caused the organization of San Francisco and San Jose Fruit and Produce Transfer Company for the purpose of acquiring the operative rights held by them and of continuing operations thereunder. During 1924 the operative rights and properties were transferred to the corporation for \$42,000 of stock and the assumption of indebtedness of \$7,529.48. Neither the transfer of the rights and properties nor the issue of the stock was authorized by this Commission. This application was filed to comply with the provisions of the Auto Stage and Truck Transportation Act requiring that the Railroad Commission authorize the transfer and issue of stock.

In asking permission to issue \$42,000 of stock, applicant reports the estimated fair and reasonable value of the properties as follows:

Plant and equipment	\$32,500 00
Furniture and fixtures	1,000 00
Shop equipment	1,000 00
Bills receivable	3,757 72
Accounts receivable	3,639 48
Cash	1,350 00
Good will	6,282 28
Total	\$49,529 48

Notes payable	\$3,626 54
Accounts payable	3,902 94
Total	\$7,529 48
Balance	\$42,000 00

The item of \$32,500 for plant and equipment includes the estimated cost, less depreciation, of eleven trucks, one touring car and five trailers. The item of \$6,282.28 is an estimate of the value of good will, but appears to have been arbitrarily determined. In making this order the Commission is not to be understood as recognizing any value for good will or as authorizing the issue of stock in payment for the operative rights in excess of the amount actually expended to acquire such rights, or as making a finding of value of such rights. In my opinion \$42,000 of stock is a reasonable amount to be authorized in payment for the properties described above and I herewith submit the following form of order:

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of operative rights and properties and the issue of \$42,000 of stock, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted as herein provided, and that the money, property or labor to be procured or paid for through the issue of the stock herein authorized, is reasonably required by San Francisco and San Jose Fruit and Produce Transfer Company;

It is hereby ordered, that S. D. Schivo, August Schivo and John F. Corriea, copartners, be and they hereby are authorized to sell and transfer to San Francisco and San Jose Fruit and Produce Transfer Company, a corporation, the properties and operative rights, referred to in the foregoing opinion, permitting the transportation of fruits, vegetables and produce between San Jose and San Francisco and intermediate points and from Redwood City to commission houses and canneries located in and about the city of Oakland, serving as intermediate points, Menlo Park, Palo Alto, Mayfield, Los Altos and shipping points within a radius of three miles on either side of the highway to the points herein mentioned, excepting that no fruits, vegetables or produce may be hauled from Mountain View or points east thereof to Oakland, or from Mountain View, Sunnyvale, Santa Clara, San Jose, Alviso, Milpitas, or any points intermediate to Oakland.

It is hereby further ordered, that San Francisco and San Jose Fruit and Produce Transfer Company, a corporation, be and it hereby is authorized to acquire the rights and properties, herein authorized to

be transferred, subject to outstanding indebtedness, and to issue in payment \$42,000 of its common capital stock and assume the payment of debts in the amount of \$7,529.48.

The authority herein granted is subject to the following conditions:

1. The consideration to be paid for the properties herein authorized to be transferred shall never be urged before this Commission or any tribunal of competent jurisdiction as a measure of value of such rights and properties, for any purpose other than this transfer.

2. S. D. Schivo, August Schivo and John F. Corriea shall immediately cancel tariffs of rates on file with the Commission covering the service, the certificates for which are herein authorized to be transferred, such cancellation to be in accordance with the provision of the Commission's General Order No. 51.

3. San Francisco and San Jose Fruit and Produce Transfer Company shall immediately file, in duplicate, tariffs of rates or adopt as its own the tariffs of rates, as heretofore filed by S. D. Schivo, August Schivo and John F. Corriea, all tariffs of rates to be identical with those heretofore filed by S. D. Schivo, August Schivo and John F. Corriea.

4. The rights and privileges herein authorized to be transferred shall not hereafter be sold, leased, transferred, assigned, or operations thereunder discontinued, unless the written consent of the Railroad Commission has first been secured.

5. No vehicle may be operated by San Francisco and San Jose Fruit and Produce Transfer Company unless such vehicle is owned by it or is leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. San Francisco and San Jose Fruit and Produce Transfer Company shall keep such record of the issue, sale and delivery of the stock herein authorized as will enable it to file, within thirty days after such issue, sale and delivery, a verified report as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority herein granted shall become effective upon the date hereof. Under such authority no rights and properties may be transferred, nor stock issued, subsequent to August 30, 1925.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of June, 1925.

DECISION No. 14997.

IN THE MATTER OF THE APPLICATION OF P. W. DONGAN, G. J. PANARIO AND W. H. CURTIS, COPARTNERS, OPERATING AND DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF SANTA

ROSA-PETALUMA-SAUSALITO AUTO STAGE COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND THE OPERATION OF ITS PASSENGER AUTO STAGE SERVICE BETWEEN SANTA ROSA AND SAUSALITO TO SAN FRANCISCO, BY WAY OF GOLDEN GATE FERRY.

Application No. 10064.

Decided June 3, 1925.

CERTIFICATE—AUTO STAGES—EXTENSION.—Application denied.

Wallace C. Ware, for Applicant.

H. C. Nelson, for West Coast Transit Company, Protestant.

R. W. Palmer and *J. J. Geary*, for Northwestern Pacific Railroad Company, Protestant.

W. E. Mielke and *E. E. Wade*, for Southern Pacific Company, Protestant.

John T. York and *C. E. Brown*, for San Francisco-Napa and Calistoga Railway Company, Protestant.

BY THE COMMISSION.

OPINION.

This is an application filed on behalf of P. W. Dongan, G. J. Panario and W. H. Curtis, copartners, doing business under the firm name and style of Santa Rosa-Petaluma-Sausalito Auto Stage Company, in which they petition for a certificate of public convenience and necessity authorizing the extension of their existing auto stage service from its present terminus at Sausalito to Fifth and Mission streets, San Francisco, California.

A public hearing on the above entitled application was held at San Francisco, the matter was duly submitted and it is now ready for decision.

Applicants at the present time operate automobile stage service between Sausalito, Santa Rosa and intermediate points, and Santa Rosa and Calistoga and intermediate points. The present application is to extend this stage service from Sausalito over the Golden Gate Ferry to San Francisco, thence to the Union Stage Depot at Fifth and Mission streets in the city and county of San Francisco.

Applicants propose fourteen round trips per day, with an additional extra trip on Sundays and principal holidays, between San Francisco and Santa Rosa and one round trip per day between Santa Rosa and Calistoga. The rates and fares herein proposed are the same as existing schedule of fares now charged by applicants with the addition of twenty-five cents for the extension from Sausalito to San Francisco. Applicants' present equipment will be used in the proposed service.

The granting of the application was protested by the West Coast Transit Company, Northwestern Pacific Railroad Company, Southern Pacific Company and San Francisco-Napa and Calistoga Railway Company. Northwestern Pacific Railroad Company operates ferry and rail service between San Francisco and points served by applicant to and including Santa Rosa. The Southern Pacific Company serves Santa

Rosa, Calistoga and San Francisco by means of a circuitous route in that passengers traveling by Southern Pacific are obliged to go by ferry to Oakland, thence by rail to Vallejo Junction, thence by ferry to Vallejo and thence by rail to Calistoga or Santa Rosa. The San Francisco-Napa and Calistoga Railway does not serve any of the points served by applicant herein other than the termini of San Francisco and Calistoga.

The evidence, exhibits and briefs submitted in connection with Application No. 10040, West Coast Transit Company, were by stipulation incorporated as a part of the record in the present proceeding. At the hearing, applicants amended their application to eliminate intermediate points, San Francisco to San Rafael.

Applicants called in support of their application a number of business and hotel men from Santa Rosa and Petaluma. These witnesses testified as to the increase in population in the territory served by applicant in Sonoma County and to the desirability of a service which would enable the patrons of applicants' line to secure stage transportation from their homes in Sonoma County directly to San Francisco without the necessity of a change from the stage to ferry boats at Sausalito. In addition to oral testimony, applicants submitted a voluminous petition signed by residents of the territory served by them together with a petition signed by the Santa Rosa Chamber of Commerce endorsing the proposed service. The general manager of applicants testified in effect that his line had carried during the preceding year some 200,000 passengers, of which number approximately 64 per cent originated or terminated at Sausalito, and that of this 64 per cent, approximately 99 per cent were destined to or originated at San Francisco and were obliged to use the ferry service of either the Northwestern Pacific Railroad Company or the Golden Gate Ferry Company. The annual report of applicants, as filed with this Commission, for the year 1922, shows that they handled 130,879 passengers; for the year 1923, 175,492 passengers. From these figures it would appear that applicants' business for the year 1923 increased approximately 34 per cent over its business for 1922. Assuming the same ratio of increase for the year 1924 as compared with 1923, applicants should handle during the year 1924, 59,670 passengers more than handled in 1923, or a total of 235,162. Taking for the purpose of this opinion, the figure of 200,000 passengers as testified to by applicants' general manager, 128,000 would originate or terminate at Sausalito, of which number 126,720 would either be destined to or originate at San Francisco.

Applicants introduced testimony to the effect that it was for the convenience of this volume of traffic that authority for the proposed extension was applied for.

Protestant, San Francisco-Napa and Calistoga Railway Company, submitted no evidence in behalf of their protest, neither did the West Coast Transit Company, other than the filing of a written protest. The Southern Pacific Company submitted two exhibits, one showing its one-way and round-trip fares between Santa Rosa and Calistoga, the other showing its time schedules as now operated. The time schedules show one round trip daily with the addition of an extra train on Sundays between San Francisco and Santa Rosa; and one round trip daily between San Francisco and Calistoga. The one-way fare from San Francisco to Santa Rosa is \$2.76 as compared with the rate of \$1.65 as proposed by applicant, and the one-way fare to Calistoga is \$2.70 as compared with the one-way fare of \$3.25 as proposed by applicant:

Northwestern Pacific Railroad Company, the chief protestant in objection to the granting of the certificate as herein applied for, submitted testimony with reference to their financial condition which showed a deficit in net income amounting to a sum in excess of \$10,000 during the last year. This applicant operates a thirty-minute ferry service between the foot of Market street, San Francisco, and Sausalito. The stages of applicant leave Sausalito from a point approximately one-half block from the depot of the Railroad Company. The annual reports of protestant Railroad Company show the following figures covering its water transfer business for the years 1922 and 1923:

Passenger revenue for 1922	amounted to	\$221,445 22
Passenger revenue for 1923	amounted to	192,376 63

or a loss in water transfer passenger revenue of \$29,068.59.

Water transfer vehicle revenue for 1922	amounted to	\$147,700 19
Water transfer vehicle revenue for 1923	amounted to	59,601 85

or a loss of \$88,098.34.

Water transfer freight revenue for 1922	amounted to	\$32,923 38
Water transfer freight revenue for 1923	amounted to	10,472 02

or a loss of \$22,451.36. The three foregoing items show a reduction in revenue for the year 1923 as compared with the year 1922, totaling \$139,618.29. A portion of this loss is undoubtedly due to the establishment of a competitive ferry service between San Francisco and Sausalito, such competitive service having been inaugurated on May 29, 1922. This material falling off in ferry service revenue must be taken into consideration and carefully weighed in connection with convenience and necessities of applicants' patrons and convenience and necessity of the general traveling public in so far as it affects the continuation of the service as now rendered by protestant railroad company.

The Railroad Company charges a one-way rate of 18 cents, San Francisco to Sausalito, and a round-trip rate of 30 cents. Accepting the

figures as submitted by applicants' general manager, as hereinbefore set forth, namely, that the total number of passengers carried by applicant for the preceding year was 126,120 originating in or destined to San Francisco, if these passengers were transported by stage directly into San Francisco over the ferries of the Golden Gate Ferry Company, and comparing results with what would happen if these same people traveled on the ferry of the Northwestern Pacific Railroad, there would be a loss in revenue in the sum of \$22,809.60, at the one-way fare, or \$19,008 at the round-trip fare. These figures would appear to be conservative considering they are based on the total of 200,000 passengers carried on the lines of applicants.

Applicants laid great stress on the inconvenience experienced by the patrons of this line in being obliged when leaving the stage at Sausalito to go to the ferry ticket office and there purchase a ticket to San Francisco before boarding the boat. But it was developed at the hearing that the applicants had made no attempt to supply themselves with ferry tickets for resale to its patrons, which would readily eliminate this alleged inconvenience. The territory served by these applicants is interurban in its nature and it may, therefore, be reasonably assumed that the great majority of their patrons are fully familiar with trans-bay transportation service and are not in the same position as travelers from more distant points who, when deposited in foreign surroundings and obliged to make transfers, are under more or less anxiety and concern.

After full consideration of all the evidence and exhibits in this proceeding, we are of the opinion that the record herein does not justify the granting of the certificate herein sought, and we hereby conclude and find as a fact that public convenience and necessity do not require the extension of service as proposed herein.

ORDER.

A public hearing having been held in the above entitled proceeding, evidence having been introduced, the matter having been duly submitted and the Commission being now fully advised and basing its order upon the finding and statements of fact as contained in the opinion preceding this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by applicants of automobile stage service between Sausalito and San Francisco as an extension of their existing stage operations; and

It is hereby ordered, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this third day of June, 1925.

DECISION No. 15003.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF SANTA CRUZ FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF AN OVERHEAD CROSSING OVER THE TRACKS OF THE SOUTHERN PACIFIC COMPANY AT RINCON, SANTA CRUZ COUNTY, CALIFORNIA.

Application No. 10816.

Decided June 3, 1925.

GRADE CROSSING—STEAM RAILROAD—SEPARATION OF GRADES.—County of Santa Cruz authorized to construct overgrade crossing of highway, over tracks of Southern Pacific Company near Rincon. Cost apportioned.

Stanford G. Smith, for the County of Santa Cruz.

F. W. Mielke, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

In this application the county of Santa Cruz requests authority to construct a crossing of a county road above the track of Southern Pacific Company at a point near Rincon, thereby eliminating an existing grade crossing of this road, and also asks that the Commission apportion the cost of the work between the interested parties.

A public hearing was held at Santa Cruz on March 30, 1925, before Examiner Austin.

This county road leads from Santa Cruz northerly to the Santa Cruz big trees, Boulder Creek and the California Redwood Park (Big Basin) and will eventually be a part of one of the routes connecting with the Sky Line boulevard now being constructed southward from San Francisco. Because of its scenic attractions the road carries a heavy traffic during the summer months, especially on Sundays. It is paved with concrete from Santa Cruz to Boulder Creek, with the exception of certain short gaps where future improvements are contemplated. One such gap is at Rincon, where the county desires to change the route of the road for a distance of approximately three-quarters of a mile for the purpose of avoiding a grade crossing with the tracks of Southern Pacific Company.

In ascending from Santa Cruz both the railroad and the county road use the westerly slope of the San Lorenzo Canyon, the road at first being east of and below the railroad. Immediately south of Rincon it ascends toward the track on a grade of 7 or 8 per cent, crosses at an angle of forty-five degrees and continues on up the mountain on the westerly side of the railroad right of way, the road being approximately parallel to the track on both sides of the crossing. Besides the hazards of the acute angle of crossing and the steep grade, the view is obscured by trees, brush and the cut and embankment slopes of the railroad.

Southbound trains, being on the descending grade, drift toward the crossing with slight noise, adding considerably to the danger at this point. The crossing is protected by an automatic flagman.

There is apparently no disagreement over the desirability of eliminating the grade crossing, Southern Pacific stipulating at the hearing that public convenience and necessity require the construction of the overhead crossing.

Representatives of both the county and the railroad agree that it is impractical to separate the grade at the site of the present crossing. The county proposes that the road be continued northerly along the easterly side of the track for a distance of approximately 3250 feet to a point near the northerly end of Rincon siding where topographical conditions are suitable for the construction of an overhead crossing. To accomplish this, however, it will be necessary to shift the railroad track for a portion of this distance westerly into the area now occupied by the county road and to construct the highway on what is now the roadbed of the railroad. At the site of the proposed crossing there are now two tracks, the northerly switch of Rincon yard being 100 feet north of the point of crossing. The overhead structure could be constructed with shorter span if this switch were moved south and the siding shortened 100 feet, but the railroad desires to retain at least the present length of siding and contends the possibility of future second track should also be considered. For this reason it is proposed that the tracks be rearranged and distance between tracks made such that a pier of the overhead structure can be placed between the main line and the siding and proper clearance with each maintained.

Southern Pacific Company stated that it had no other plan of grade separation to offer and that its only objection to the proposed change was that the railroad roadbed would be moved further into the hillside with the result that its maintenance cost would, thereby, be increased. The plan as proposed by the county appears, however, to be the most practical and economical method of eliminating the existing grade crossing and in the opinion of the Commission it should be carried out substantially as shown on Applicant's Exhibit No. 1.

It is also requested that the Commission apportion the cost of the grade separation between the interested parties. The county of Santa Cruz stated that in its opinion the railroad company should bear one-half of the cost of the entire project. Southern Pacific Company, on the other hand, argues that it should participate only in the cost of the structure carrying the highway over their tracks, and offered to bear one-half of the cost of such structure. It appears to the Commission that the result to be attained is the elimination of a hazardous grade crossing and not the construction of a bridge over the carrier's tracks, and since no other practical or less expensive method of accomplishing

this result is apparent and the entire project as proposed by the county is necessary to effect the separation of grades it can only be considered as a unit and the apportionment of cost determined by the benefits accruing to each party.

If the elimination of this grade crossing were the only benefit to either party it would be fair to divide the cost equally between the applicant and the railroad company, but in this case this major improvement is modified by certain minor advantages or detriments to the county road and the railroad roadbed, which should be considered in arriving at an apportionment of the cost.

The carrying out of this project relieves the county of the expense of reconstructing and improving the existing road, which could be rebuilt in approximately its present location and still maintain the limits of grade, curvature and width which have been adopted for this highway. It is proper that the estimated cost of so doing be deducted from the cost of the grade elimination project. The county presented at the hearing an estimate of \$66,485 for the project, as outlined in the application, and has subsequently filed with the Commission plans and an estimate of \$5,404.62 for building a road without eliminating the grade crossing. Of the estimated total cost of the project \$5,404.62 is, therefore, solely for the benefit of the county.

In addition to this the alignment of the proposed road is better than could be obtained in rebuilding the present location, the amount of curvature within the limits of the line change being less than half, and two dangerous "blind" curves will be eliminated. The county is also securing a fully stabilized roadbed and will be relieved of the maintenance of the upper slopes which during heavy rainfall may cause slides. Because of the importance of this road these items are of considerable value to the county and should be taken into account in apportioning cost.

There exists at the present time a private overhead crossing over the railroad track connecting the land of Henry Cowell lying east of the track with the county road in its present location. Southern Pacific Company is obligated to maintain this timber bridge but it is probable that relocation of the highway on the east side of the track would obviate the necessity for this crossing and Southern Pacific Company may, therefore, be relieved of its further maintenance. The bridge is at present in unsafe condition and is not in use. The cost of restoring it to a safe and reasonable state of repair is estimated to be \$1,150.

The shifting of the track effects a slight betterment in the line and grade of the railroad, one three-degree curve 265 feet in length being eliminated and maximum grade reduced, but it is contended by Southern Pacific Company that maintenance of its roadbed will be rendered more difficult and expensive because of shifting the track further into

the hillside and that frequent slides can be expected until the new slopes are stabilized. It is possible that this burden of additional maintenance on the railroad will substantially outweigh the slight improvement of line and grade that will result.

Giving due consideration to these several advantages and disadvantages it appears to the Commission that the county of Santa Cruz will receive considerably more direct benefit with no offsetting disadvantages from the carrying out of this project than will the railroad company and that 25 per cent of the cost of the project, therefore, should be borne exclusively by the county and the remaining 75 per cent divided equally between the county of Santa Cruz and Southern Pacific Company. This will result in a division of cost for the project of $62\frac{1}{2}$ per cent to the applicant and $37\frac{1}{2}$ per cent to the railroad.

ORDER.

The county of Santa Cruz having made application for an order authorizing the construction of a public road crossing over the tracks of Southern Pacific Company at a location near Rincon, Santa Cruz County, and apportioning the cost thereof, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that the county of Santa Cruz and Southern Pacific Company be and they are hereby directed to eliminate the grade crossing of the county road with the tracks of Southern Pacific Company at engineer's station 4052+60 on said railroad by the construction of a crossing above the tracks of Southern Pacific Company at the location and in the manner hereinafter specified, said crossing to be constructed subject to the following conditions, viz:

(1) The relocation of the county highway and the railroad tracks necessary to effect the grade separation shall be substantially as shown in applicant's Exhibit No. 1.

(2) The point of crossing shall be approximately at engineer's station 4020+07 on the constructed line of Southern Pacific Company near Rincon, Santa Cruz County, as shown by the map (Proposed Relocation of Southern Pacific Railroad and County Highway) applicant's Exhibit No. 1.

(3) The structure carrying said road over Southern Pacific Company tracks shall be constructed in accordance with detailed plans and specifications which shall be filed with and approved by this Commission. It shall provide space for two parallel tracks with pier or other supporting member placed between the tracks.

(4) Said crossing shall be constructed with clearances conforming to provisions of the Commission's General Order No. 26-A.

(5) Applicant shall within thirty (30) days thereafter notify this Commission, in writing, of the completion of the installation of said crossing.

It is hereby further ordered, that the cost of said overhead crossing, exclusive of roadway paving, shall be apportioned on the basis of sixty-two and one-half (62½) per cent to the county of Santa Cruz and thirty-seven and one-half (37½) per cent to Southern Pacific Company. The cost of roadway paving shall be borne exclusively by the county of Santa Cruz.

It is hereby further ordered, that the future maintenance of the crossing be borne by applicant.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this third day of June, 1925.

DECISION No. 15007.

IN THE MATTER OF THE APPLICATION OF TARKE WAREHOUSE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 11112.

Decided June 3, 1925.

SECURITIES—STOCK—To ISSUE.—Tarke Warehouse Company authorized to issue \$13,000 of common stock.

Alvin Weis, for Applicant.

BY THE COMMISSION.

OPINION.

Tarke Warehouse Company asks permission to issue 130 shares (\$13,000 par value) of its common capital stock for the purposes mentioned in this opinion.

It is of record that C. H. Straub and H. B. Marshall as copartners, at a cost of \$23,000, acquired property at Tarke and constructed thereon a warehouse. The \$23,000 is segregated as follows:

Warehouse site consisting of 1.62 acres of land at Tarke Station, adjoining property and tracks of Sacramento Northern Railway, together with six-room frame dwelling house, private garage, and one large water tank mounted on frame tower.....	\$5,000 00
Corrugated iron warehouse 50 feet by 400 feet on above site, with corrugated iron roof, together with office building 20 feet by 20 feet attached to corner of warehouse, weighing equipment and miscellaneous equipment; construction work has just been completed and the costs, itemized, are as follows—	
Foundation and dirt fill	\$4,023 07
Building labor	2,557 36
Twenty-four ton Howe scale, installed.....	1,091 19
Lumber, iron, nails, hardware.....	5,381 08
Floor	16 88
Warehouse and office equipment.....	241 58
Miscellaneous	101 88
	<hr/>
	13,413 04

Additional items (in course of construction or for which contracts have been let) to be completed and paid for by Straub and Marshall, copartners—

Warehouse and office equipment consisting of elevators, hand trucks, small platform scales, etc.....	\$1,344 00
Electric wiring	320 00
Lumber and hardware	65 00
Cement floor (contract price).....	2,350 00
Labor	150 00
Miscellaneous items (estimated)	357 96
	<hr/>
	\$4,586 96
Total	<hr/>
	\$23,000 00

To finance the acquisition and construction of the warehouse and properties, C. H. Straub and H. B. Marshall borrowed \$10,000, evidenced by a 7 per cent one-year note, dated December 16, 1924, and secured by a deed of trust which is a lien on the warehouse property, which applicant intends to acquire. If permitted by the Commission, applicant will assume the payment of the note.

Of the 130 shares of stock which applicant asks permission to issue, 60 shares will be issued to C. H. Straub and 60 shares to H. B. Marshall in partial consideration for the sale by said C. H. Straub and H. B. Marshall of the property described herein and ten shares will be sold at par for cash to Alvin Weis, and the proceeds used for working capital. The amount of stock which applicant asks permission to issue and the note, the payment of which it intends to assume, is equal to the actual cost of the properties which it proposes to acquire.

ORDER.

Tarke Warehouse Company, a corporation, having applied to the Railroad Commission for permission to issue 130 shares (\$13,000 par value) of common capital stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock, is reasonably required for the purpose specified in this order, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Tarke Warehouse Company be and it is hereby authorized to issue on or before October 1, 1925, one hundred and thirty shares (\$13,000 par value) of its common capital stock and deliver sixty shares of such stock to C. H. Straub and sixty shares to H. B. Marshall in partial consideration for the sale, transfer and conveyance by said C. H. Straub and H. B. Marshall to applicant, of the property described in the opinion which precedes this order and in Exhibit "A" attached to the application. Ten shares of the stock herein authorized may be delivered to Alvin Weis, for which applicant

is to receive \$1,000 in cash and which cash applicant may use for working capital.

It is hereby further ordered, that Tarke Warehouse Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the property as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this third day of June, 1925.

DECISION No. 15013.

IN THE MATTER OF THE APPLICATION OF RUSSELL O. DOUGLASS (SUBSTITUTED FOR S. N. DOUGLASS), FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A PASSENGER AND BAGGAGE, ALSO A TRUCK SERVICE, BETWEEN SACRAMENTO AND YUBA CITY.

Application No. 10317.

IN THE MATTER OF THE APPLICATION OF C. C. COCHRAN, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO STAGE LINE FOR THE TRANSPORTATION OF PASSENGERS AND BAGGAGE, FOR COMPENSATION, BETWEEN SACRAMENTO AND MARYSVILLE, AND INTERMEDIATE POINTS, VIA GARDEN CITY HIGHWAY.

Application No. 10598.

IN THE MATTER OF THE APPLICATION OF H. O. VARRIER, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO TRUCK LINE FOR THE TRANSPORTATION OF PROPERTY, FOR COMPENSATION, BETWEEN SACRAMENTO AND MARYSVILLE, AND INTERMEDIATE POINTS, VIA GARDEN CITY HIGHWAY.

Application No. 10624.

Decided June 6, 1925.

CERTIFICATE—AUTO STAGES.—Application of C. C. Cochran for passenger and baggage service, and of H. O. Varrier for auto freight service between Sacramento and Marysville, and intermediate points, via Garden City highway, granted.

P. J. Wilkie, for the Applicant in Application No. 10317; and also appearing as Protestant in Applications No. 10598 and No. 10624.

Ray Maxwell, and *Sanborn and Roehl and DeLancy C. Smith*, by *A. B. Roehl*, for Applicants in Applications No. 10598 and No. 10624, and also appearing as Protestants in Application No. 10317.

Chas. W. Slack and *Edgar T. Zook*, by *C. F. Metteer*, for the Natomas Company of California, Protestant.

C. F. Metteer, for Reclamation District 1000, Protestant;

Chas. R. Detrick, for Sacramento Northern Railroad Company, and Western Pacific Railroad Company, Protestants.

Edward Stern, for American Railway Express Company, protesting Applications No. 10317 and No. 10624.

H. H. Gogarty, for Southern Pacific Company, Protestant.

J. B. Gibson, for Golden Eagle-Barker Stage Line, protesting Application No. 10598, and Application No. 10317 in so far as passenger operation is concerned.

BY THE COMMISSION.

OPINION.

S. N. Douglass, original applicant above named, died on October 29, 1924, and Russell O. Douglass, brother of said deceased, filed thereafter on November 14, 1924, an amended application in Application No. 10317, asking to be substituted in the place and stead of said original applicant, S. N. Douglass, deceased, and in accordance with said amended application, Russell O. Douglass has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of passengers and freight over and along the Garden highway via Elkhorn, Verona, Nicolaus and Tudor, between Sacramento and all intermediate points between Sacramento and Yuba City and between Marysville and all intermediate points between Marysville and Sacramento, provided that no local service shall be rendered between Marysville and Yuba City and provided further that no through service shall be rendered between Sacramento and Yuba City or between Sacramento and Marysville.

Applicant proposes to charge rates and to operate on a time schedule in accordance with Exhibits "A" and "B," attached to said application and to use the equipment described in Exhibit "C."

C. C. Cochran has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of passengers and baggage between Sacramento and Marysville and intermediate points over and along Garden highway serving Nicolaus, Wilson School, Tudor, Knights Landing Junction, Oswald, Bogue and Yuba City.

Applicant proposes to charge rates and to operate on a time schedule in accordance with Exhibits "B" and "C" attached to said application and to use the equipment described in paragraph 6 of said application.

H. O. Varrier has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile truck line as a common carrier of freight between Sacramento and Marysville and intermediate points over and along the Garden highway serving Elkhorn, Verona, Nicolaus, Tudor, Oswald, Bogue and Yuba City. Applicant proposes to charge rates and to operate on a time schedule in accordance with Exhibits "A" and "B" attached to said application and to use the equipment described in paragraph 5 of said application.

Sacramento Northern Railroad Company, Western Pacific Railroad Company, Southern Pacific Company, American Railway Express Com-

pany and Golden Eagle-Barker Stage Line appeared in opposition to the granting of each and all of said applications, but during the hearing withdrew all opposition to the proposed intermediate service and protested only the granting of the proposed through service of all of said applicants.

R. O. Douglass protested the granting of Application No. 10598 and Application No. 10624. Applicants in Application No. 10598 and Application No. 10624 protested the granting of Application No. 10317. Natomas Company, a corporation, and Reclamation District No. 1000 protested the granting of each and all said applications, but withdrew their opposition during the hearing of these proceedings to Application No. 10598 and Application No. 10624, by virtue of a certain stipulation entered into whereby the private ownership of said Natomas Company of a portion of the Garden highway to be traversed, was recognized by said applicants in Application No. 10598 and Application No. 10624.

Public hearings on said applications were conducted by Examiner Satterwhite at Sacramento and Marysville, the matter was duly submitted and is now ready for decision. All said applications were consolidated for the purpose of receiving evidence and for decision.

The record shows that said R. O. Douglass is not the heir-at-law of his deceased brother, S. N. Douglass, but that deceased left a widow surviving him as his sole heir-at-law. Applicants in Application No. 10598 and Application No. 10624 having moved the Commission during the course of these proceedings for a dismissal of said application of S. N. Douglass, deceased, No. 10317, on the grounds that said R. O. Douglass is not the heir-at-law of S. N. Douglass, deceased, and that no filing fee has ever been paid by said R. O. Douglass, as required by chapter 213, Statutes of 1917, as amended; and it appearing that said motion is meritorious and well taken, the Commission is of the opinion that said Application No. 10317 should be dismissed and the order herein will so provide.

The record shows that the so-called Garden highway has recently been completed and that it passes through a rich, extensive and rapidly growing farming and agricultural territory. The numerous farms and ranches lying along and adjacent to this new highway vary in size from twenty to several hundred acres.

The evidence introduced by all of said applicants shows that the farmers and owners of these fruit, vegetable and dairy ranches are almost unanimously in favor of an automobile passenger service, as well as an auto freight service, through this farming district. Sacramento, Yuba City and Marysville are the buying centers for this section and it appears that the farmers and residents purchase their goods and supplies ordinarily from the communities nearest to their respective ranches. Sacramento, however, is the main buying center and the

greater volume of freight shipments will move northbound to the intermediate points along the proposed route on the Garden highway. The record shows that the movement of farm laborers is also large in this district and the turnover of labor is quite frequent upon the various ranches.

With reference to the proposed through passenger service sought by applicant, C. C. Cochran, the testimony of witnesses for applicant indicates that they favor this through passenger stage service, not on the ground that the transportation facilities of the existing rail and stage lines between the said terminals are unsatisfactory, or inadequate, but on the basis that this additional stage line would pass along a more scenic route and through a rapidly developing farming territory and would thereby attract future travel of tourists and prospective investors, resulting in a quicker development of this particular district.

All the protesting rail carriers jointly presented considerable oral and documentary evidence to the effect that there is no public necessity for any additional through passenger and freight service between the said terminals. A large number of retail merchants and business men from Marysville testified that there was no need whatever for this proposed additional through stage service and that the service of the present electric and steam lines was entirely satisfactory.

The record shows that the Sacramento Northern Railroad Company maintains a fast and well-equipped electric train service operating six round trips daily between Sacramento, Marysville and Yuba City. L. I. McKim, assistant general passenger agent of the Sacramento Northern Railroad Company, testified that this protestant renders an adequate service in every respect and presented exhibits indicating clearly that its equipment is commodious and ample to meet every need of its service. It was also shown that Sacramento Northern and the Western Pacific Railroad each operate one local freight train per day between Sacramento, Marysville and Yuba City. It was also shown that the Southern Pacific Company, which operates over two different routes between Sacramento and Marysville, operates a local freight service between these terminals that is wholly adequate to meet the freight demands of these communities. The Golden Eagle-Barker Stage Line conducts a passenger stage line between Sacramento and Marysville by way of Roseville, Lincoln and Sheridan and operates four round trips daily between these two terminals. Exhibits filed by this protesting stage line show that the seating capacity of its stages far exceeds the actual number of passengers which have been carried for the last six months between these two terminals.

The evidence shows that 17 miles of the Garden highway is privately owned by the said Natomas Company and during the course of these proceedings a written stipulation was entered into between said Natomas

Company and said applicants, C. C. Cochran and H. O. Varrier, wherein it was agreed that the Natomas Company is the owner of that portion of the Garden highway situated in the county of Sacramento and particularly described as follows:

Commencing at the point of intersection of the center line of the so-called River levee of the Reclamation District No. 1000 with the center line of the so-called Lower Marysville road, the said point being in the east line of fractional section 30, township 9 north, range 5 east, Mount Diablo base and meridian, and south two thousand eight hundred and forty (2,840) feet, more or less, from the northeast corner thereof; and ending at a point in the center line of the said River levee that is north 10 degrees 47½ minutes west one hundred and twenty-five (125) feet more or less, from the southerly boundary line of lot 75, as the said lot is delineated and so designated on that certain map entitled "Natomas Elkhorn Subdivision," filed in the office of the county recorder of said county of Sacramento on the 26th day of February, 1918.

It appears by the terms of this stipulation that H. O. Varrier and C. C. Cochran have been granted the privilege to operate their respective proposed automobile stage and auto truck lines over and along this portion of the Garden highway with the understanding that in any order made by this Commission that the ownership by the Natomas Company of the above described portion of the said route of said applicants shall be recognized and that any certificate of public convenience and necessity that may be issued by this Commission shall be made subject to all rights of said Natomas Company as the owner of the private road hereinabove particularly described. The Commission, therefore, in the order herein will give recognition to the said ownership of the Natomas Company, as shown by the record herein.

After a careful consideration of all the evidence in these proceedings, we are of the opinion and hereby find as a fact that said applicant, C. C. Cochran, and applicant H. O. Varrier are each respectively entitled to a certificate of public convenience and necessity to operate the passenger and freight service proposed in their several applications only to and from the intermediate points proposed to be served between Sacramento and Marysville and between Sacramento and Yuba City, but are not entitled to a certificate of public convenience and necessity to operate any through passenger or through freight service between Sacramento and Marysville and between Sacramento and Yuba City and the order herein will be granted subject to the limitations herein indicated.

ORDER.

Public hearings having been held in the above entitled applications, the matters having been duly submitted, the Commission being now fully advised and basing its order on the conclusions and findings of fact as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by C. C.

Cochran of an automobile stage line as a common carrier of passengers and baggage over and along the Garden highway via Nicolaus, Wilson School, Tudor, Knights Landing Junction, Oswald and Bogue between Sacramento and all intermediate points between Sacramento and Yuba City and between Marysville and all intermediate points between Marysville and Sacramento, provided that no local service shall be rendered between Marysville and Yuba City and provided further that no through service shall be rendered between Sacramento and Yuba City or between Sacramento and Marysville, and the foregoing certificate is hereby granted with the understanding that the ownership of 17 miles of the foregoing route by the said Natomas Company of California is hereby recognized, which privately-owned portion of said route is hereinabove particularly described, and the authority herein granted to operate said automobile passenger stage line is made subject to all the rights of said Natomas Company, a corporation, as the owner of the private road hereinabove particularly described.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by H. O. Varrier of an auto truck line as a common carrier of freight over and along the Garden highway via Elkhorn, Verona, Nicolaus, Tudor, Oswald and Bogue between Sacramento and all intermediate points between Sacramento and Yuba City and between Marysville and all intermediate points between Marysville and Sacramento, provided that no local service shall be rendered between Marysville and Yuba City, and provided further that no through service shall be rendered between Sacramento and Yuba City or between Sacramento and Marysville, and the foregoing certificate is hereby granted with the understanding that the ownership of 17 miles of the foregoing route by the said Natomas Company of California is hereby recognized, which privately-owned portion of said route is hereinabove particularly described, and the authority herein granted to operate an auto truck line as a common carrier of freight is made subject to all the rights of said Natomas Company, a corporation, as the owner of the private road hereinabove particularly described.

It is hereby ordered, that certificates of public convenience and necessity for the foregoing passenger and freight service in Applications Nos. 10598 and 10624 be and the same are hereby granted subject to the following conditions:

1. Applicants shall file their written acceptance of the certificates herein granted within a period of not to exceed ten (10) days from date hereof; and shall file, in duplicate, tariff of rates, fares, rules and regulations, and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariffs of rates and fares, rules and regulations, and time schedules to be identical with those attached to

the application herein; and shall commence operation of the service herein authorized within a period of not to exceed sixty (60) days from the date hereof, unless the time for commencement of operation hereunder is hereafter extended by a supplemental order of this Commission.

2. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated, nor service thereunder discontinued unless the written consent of the Railroad Commission to such assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.

3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to and approved by this Commission.

For all other purposes, other than hereinabove specified, the effective date of this order shall be twenty (20) days from the date hereof.

It is hereby ordered, that said application of S. N. Douglass, No. 10317, be and the same is hereby dismissed.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15014.

IN THE MATTER OF THE APPLICATION OF C. S. STEWART, J. NEWMAN AND H. J. WILKEN, A COPARTNERSHIP, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO STAGE TRANSPORTATION SERVICE FROM LOS ANGELES TO VARIOUS POINTS IN STATE OF CALIFORNIA, AS FAR NORTH AS SAN FRANCISCO ON COAST ROUTE, MANTECA ON VALLEY ROUTE, MONO LAKE ON OWENS VALLEY ROUTE, VICTORVILLE, ORO GRANDE AND BIG BEAR DAM, AND POINTS IN IMPERIAL VALLEY, TO HANDLE LABORERS IN PARTIES OF SIX (6) OR MORE.

Application No. 10599.

Decided June 6, 1925.

CERTIFICATE—AUTO STAGES—LABOR BUREAU SERVICE.—Application denied.

C. H. Tribbit, Jr., for Applicants.

C. W. Cornell, for Pacific Electric Railway, Southern Pacific Company, San Diego and Arizona Railway Company and Trona Railway Company, Protestants.

E. T. Lucey and H. W. Beck, for Atchison, Topeka and Santa Fe Railway Company, Protestant.

H. B. Ellison, for Union Pacific System, Protestant.

L. J. McKim and Bodie K. Smith, for Western Pacific Railway, Protestant.

Warren E. Libby, for Pickwick Stages, Northern Division, Pickwick Stages, Incorporated, and Packard Stage Line, Protestants.

H. W. Kidd and G. H. T. Delamer, for California Transit Company, Motor Transit Company, Valley Transit Company, United Stages, Incorporated, and Merchants' and Manufacturers' Association of Los Angeles, Protestants.

Thomas Barker, for Labor Commissioner of the State of California, interested party.

J. E. McCurdy, for Peninsula Rapid Transit Company, Pacific Auto Stages, Incorporated, and Auto Transit Company, Protestants.

R. V. Crowder, for Los Angeles Steamship Company, Protestant.

BY THE COMMISSION.

OPINION.

C. S. Stewart, J. Newman and H. J. Wilken, copartners, have made application to the Railroad Commission for a certificate of public convenience and necessity to operate auto stage transportation service from Los Angeles to various points in California, over fixed routes, for the purpose of transporting laborers and their baggage from employment agencies to various destinations, in parties of six or more. By stipulation entered into at the time of hearing, applicants are restricted to the movement of six or more passengers originating at employment offices in the city of Los Angeles, to any one destination, and also are restricted to the transportation of male passengers only.

A public hearing herein was conducted by Examiner Williams at Los Angeles.

The service proposed by applicants herein is in a large measure exclusive in its character and is not intended to be available to passengers between Los Angeles and any other point, except passengers tendered to applicants by employment agencies. Two of the applicants, Stewart and Newman, have been engaged in this business in Los Angeles for approximately twelve years, and until recently, their right to conduct the operation without certificate has not been questioned. Applicant Wilken has been engaged in the business about three years. When question arose as to the validity of the service being performed, applicants formed a copartnership and filed the application now under consideration.

The facts as disclosed by the record herein appear to be that certain employment agencies in the city of Los Angeles procure labor for more or less distant industrial enterprises, on the condition that the employer pay transportation charges for all laborers delivered at the point selected by the employer. This means that the carrier of this labor is either paid in advance by the laborer himself at the time of beginning the trip, or the fare is advanced by the employment agency or is collectible from the employer at the point of destination, but is collectible only at the latter point when the laborer is actually delivered to the employer. This method is in vogue largely with indigent laborers, principally foreign, and is established for the purpose of assuring the employer that the men will reach their destination, and to prevent such laborers or others from obtaining free transportation. Much stress was laid by applicants on the statement that this is the only method by which employment agencies and employers may be certain that the laborers will reach their destination; that the vehicles used to transport such laborers are in charge of drivers who have the laborers in custody and take all due precautions that none abandon the journey before delivery at the place designated by the employer. Each

of the applicants denied that any force was used in this process, but testified rather that skillful persuasion and a continuous journey practically insured the delivery of full loads at destination. Applicants contended that indigent laborers provided with railroad tickets or other means of transportation used them a part of the distance only, and that frequently both the employer and the employment agency were the victims of this practice. While applicants were positive that the use of force or restraint, except moral suasion, was never necessary to insure delivery of full loads, it is significant that the arrangement between the employment agency and the employer is usually based on a fare paid upon delivery of the employee, and failure to deliver means a loss of the fare to the carrier.

Applicants were supported in their application by the testimony of H. Valhoff, manager of the Murray and Ready Employment Agency at Los Angeles for the past fifteen years. Mr. Valhoff testified that applicant Newman had been transporting labor for their agency for eight years, that he did not, to the knowledge of the witness, conduct any back-haul of passengers, and that no commissions had ever been paid for the business procured through this agency. The witness further testified that this agency used rail carriers and authorized stage lines as a general rule, and used Newman and other labor carriers only when the destinations were off railroad stops. Mr. Valhoff testified that frequently whole carloads of laborers had disappeared in transit. He stated that transportation as proposed by applicants was required only in emergencies, for indigent laborers whose fare must be advanced by the employer. This agency handles between 15,000 and 20,000 men each year, according to Mr. Valhoff's testimony, and does not on the average require a daily stage service.

Applicants were also supported by the testimony of Ricardo Rodriguez, conducting an employment agency at Los Angeles and handling Mexican labor principally. Mr. Rodriguez testified that his agency handled between 600 and 1000 laborers a year, about two-thirds of whom have been transported by applicant Newman. This business was all conducted on the basis of collection of fares at destination, the employment agency advancing no money. This witness also testified that no commissions had ever been paid to the agency for the business procured.

Henry Watson, manager of the International Employment Agency at Los Angeles, testified that applicants Newman and Stewart had been transporting labor for this agency for the past five or six years, but none within the period immediately prior to the hearing.

Each of these witnesses regarded the service conducted by applicants as a benefit to the agency, to the employer and to the employee, particularly in cases where the foreign labor was unfamiliar with the geog-

raphy of the country, or where the point of destination was not served by rail or stage carriers.

Protestants herein were supported in their attitude by Philip Playter, in charge of the office of Hummel Bros. Employment Agency in Los Angeles. During 1923 this agency, according to the testimony of witness, placed over 25,000 laborers at various points in California, and in 1924 placed approximately 18,000. Four-fifths of this number were transported by authorized carriers and the remainder by private stages. The witness testified that applicant Newman had transported some laborers from the agency, but not directly for it. This witness further testified that as a rule the service proposed by applicants was not needed, except to serve points off carrier lines or for the purpose of guaranteeing transportation charges.

R. Mojica, conducting an employment agency in Los Angeles for Mexican labor for the last ten years, testified that an intelligent selection of applicants would result in the choice of men who really intended to work, and that very little risk of loss in transit was taken. He further testified that men who must be guarded and kept under surveillance during transportation were hardly worth employing. This witness testified that he patronized regular stage lines and rail carriers because of their responsibility.

Edgar R. Perry, consulting engineer of the Merchants' and Manufacturers' Association of Los Angeles and also its assistant manager, testified that the maintenance and management of the association's employment bureau in Los Angeles have been in his charge for the past three years. This association has a membership of 8000 and maintains this agency cooperatively, not only for its own membership but for all persons seeking employment. Witness testified that during the three years this bureau has been in existence, it has handled 275,000 men, and that of this number 98 per cent have been transported to places of employment over existing authorized facilities. He further testified that his records disclose that "very rarely does anyone ever fail to reach destination." The persons not transported over authorized facilities, witness explained, were sent, in emergencies, on trucks or other vehicles, and usually to points at no great distance from the city. Mr. Perry also testified that this agency delivers laborers to points as far north as San Francisco.

We believe the record as so far disclosed to be ample for the purpose of determining the necessity and convenience of the service proposed by applicants herein, without going into detail as to the effective showing made by protestants relative to their equipment or their ability to conduct transportation to points on their lines. As to points off their lines to any great distance, the demand is shown by the record to be only occasional and sporadic, and deliveries to such points may be

arranged for without the necessity of equipping carriers with a certificate such as is sought in the present proceeding, especially as the possession of such a certificate permits the transportation of passengers without payment of fares before destination is reached, and countenances a known purpose on the part of the certificate holder to exercise some sort of restraint upon the passenger in order to collect the fare proposed to be charged. If need has been shown, it has been a private need on the part of the employment agency or the employer, and not a public necessity on the part of the passenger. The situation presented in the record herein appears to be analogous to the one presented in Application No. 8671, Houck and Smith, determined by Decision No. 13265, dated March 14, 1924, in which decision the Commission disposes of this feature of the application in the following language:

Moreover, the evidence shows that this proposed service is based wholly upon the plan and desire of applicants to secure and load in their stages at the employment offices in Sacramento and Marysville, these mill laborers and lumberjacks, and transport them to Westwood or Susanville in a sort of quasi-custody, in order to insure their arrival there to the private advantage or benefit primarily of said applicants and the two or three lumber companies operating at these towns.

This Commission does not consider public necessity and convenience to be based upon any such scheme or purpose as herein indicated by applicants.

The Commission has, in its previous decisions, clearly established the doctrine that certificates to operate auto stage service shall be granted or withheld upon the basis that the rights, welfare and interest of the general public will be advanced by the authorization and prosecution of the enterprise, but not upon the private benefit or advantage that may accrue to any carrier, shipper or consignee.

We therefore find as a fact, upon the record herein, that public convenience and necessity do not require the service proposed by applicants herein, and that the application should therefore be denied. An order will be entered accordingly.

ORDER.

C. S. Stewart, J. Newman and H. J. Wilken, copartners, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate auto stage transportation service from Los Angeles to various points in California, over fixed routes, for the purpose of transporting laborers in parties of six or more from employment agencies to various destinations, a public hearing having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the service as proposed by applicants herein; and

It is ordered, that the application be and the same is hereby denied.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15015.

IN THE MATTER OF THE APPLICATION OF PASADENA ELECTRIC
EXPRESS COMPANY FOR AN ORDER AUTHORIZING THE CREA-
TION OF BONDED INDEBTEDNESS AND THE ISSUE AND SALE
OF BONDS.

Application No. 11097.

Decided June 6, 1925.

SECURITIES—BONDS—To ISSUE.—Application denied.

Hugh Gordon, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Pasadena Electric Express Company to issue and sell, at 90 per cent of face value plus accrued interest, \$80,000 of 7 per cent ten-year bonds due April 1, 1935, for the purpose of providing funds to pay outstanding indebtedness and to finance the cost of improvements and betterments to its operating facilities.

The company reports that, among other properties, it is the owner of certain real estate, in the city of Los Angeles, having a frontage of 100 feet on Commercial street and extending back to a depth of 200 feet to Aliso street. The improvements consist of a new four-story fireproof Class "A" concrete warehouse building, 40 by 125 feet in dimension, with 20,000 square feet of floor space, which is located on the west side of the property and known as No. 447 Commercial street, and a one-story brick warehouse building located on the east side of the property and known as No. 453 Commercial street, together with loading platforms, spur tracks and other facilities incidental to the business of a warehouseman. Applicant estimates the value of the real estate and improvements at \$165,000, which amount includes \$15,000 representing the cost of the brick warehouse, \$70,000 representing the cost of the new warehouse and \$80,000 representing the estimated market value of the land, it being valued at \$4 a square foot.

On May 1, 1924, applicant leased the new warehouse building for a term of five years to Central Warehouse and Storage Company, a corporation controlled by it through stock ownership. The agreement between the two corporations provides, among other things, for the payment to applicant, as rental, of all the net earnings received from the operation of the warehouse, such payments being made monthly. The business of Central Warehouse and Storage Company consists of general warehousing, flour being the principal commodity stored. For the twelve months ending April 30, 1925, the warehouse company reports its gross revenues at \$21,478.87, its operating expenses at \$14,246.53 and its net revenue payable to applicant under the terms of the lease at \$7,232.34.

Applicant reports outstanding a 7 per cent note due October 11, 1933, for \$48,500 in favor of Mortgage Guarantee Company of Los Angeles secured by a first trust deed on the real estate and improvements referred to herein, and a 7 per cent note due October 11, 1925, for \$14,750 in favor of Hammond Lumber Company, secured by a second trust deed on the same properties. In addition, the company reports outstanding two three-months 7 per cent notes in the aggregate amount of \$7,000 in favor of Pasadena National Bank.

Applicant now desires to pay its outstanding notes, which aggregate \$70,250, and to install, at an estimated cost of \$7,750, certain improvements in, and additions to, its warehouse equipment, consisting of a conveyor system, elevators, a garage and hand trucks. It is to obtain the moneys necessary to discharge its indebtedness and to finance in part the proposed improvements and additions that the present request is made for permission to issue and sell \$80,000 of bonds.

The \$80,000 of bonds will be dated April 1, 1925, bear interest at 7 per cent per annum, mature April 1, 1935, be callable at 105 and be secured by a first mortgage or deed of trust on the real estate and improvements referred to herein. The company reports that it has made arrangements to sell its bonds to Southwest Bond Company at 90 per cent of their par value plus accrued interest.

While a copy of the proposed mortgage or deed of trust has not been filed with the Commission, there is filed a copy of applicant's agreement with Southwest Bond Company in which applicant agrees, among other things, to pay to the trustee, in addition to the interest on the bonds, a sum sufficient to retire annually \$5,000 of bonds either through call at 105, or purchase in the open market at the best obtainable price, and also annually one-third of all net profits after deducting operating expenses, including depreciation, and payment of officers' salaries not exceeding \$15,000 per annum.

Applicant has agreed also to pay all costs incident to the issue and sale of the bonds, including engraving and printing, certificate of title, recording and trustees' fees, notary and escrow fees and attorneys' expenses and fees for approving the legality of the bonds. Applicant estimates these costs at about \$500, resulting in a net price to applicant for its bonds of about \$71,500 or about 89 per cent of face value. At 89, the effective interest rate on applicant's bonds, assuming they were not paid until maturity: To wit, April 1, 1935, would be about 8.60 per cent. However, on account of the additional payments to be made by applicant to the trustee, at least \$5,000 of bonds will be retired annually and it is thought that the entire issue will be paid in about six years after issue. If paid at par in six years, the effective interest rate would be about 9.30 per cent. If the bonds were paid at 105, the call price, the effective interest rate, on bonds retired six years after

issue, would be about 9.76 per cent. On bonds retired before six years the effective rate will be higher.

Should the \$80,000 of 7 per cent bonds be issued, applicant's annual interest charges would amount to \$5,600. This amount was earned about $1\frac{1}{2}$ times in the twelve months ending April 30, 1925, the first year of operation, the net income available for interest being reported at \$7,232.34. With the installation of the improvements and betterments it is thought the net income will be materially increased. Further, the \$80,000 of bonds will be a first lien on properties valued by applicant at \$165,000, or over twice the face value of the bonds.

In view of the showing made in this matter and of the statements herein, we do not believe that we are justified in authorizing the issue of the bonds at the price requested and under the conditions set forth in the agreement between applicant and Southwest Bond Company. The request of applicant for permission to issue \$80,000 of bonds will, therefore, be denied without prejudice.

ORDER.

Pasadena Electric Express Company, having applied to the Railroad Commission for permission to issue and sell \$80,000 of bonds, a public hearing having been held before Examiner Williams and the Railroad Commission being of the opinion that for the reasons set forth in the foregoing opinion, this application should be denied without prejudice.

It is hereby ordered, that the application referred to herein be and it is hereby denied without prejudice.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15016.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES, NORTHERN DIVISION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE STAGE SERVICE AS A COMMON CARRIER OF PASSENGERS AND EXPRESS MATTER BETWEEN LOS ANGELES AND THE CALIFORNIA-NEVADA STATE LINE NORTH OF COLEVILLE, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 8023.

IN THE MATTER OF THE APPLICATION OF GEORGE W. WILKINS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A PASSENGER AND EXPRESS AUTOMOBILE STAGE SERVICE BETWEEN BISHOP AND CUNNINGHAM, VIA MAMMOTH AND ALL INTERMEDIATE POINTS.

Application No. 8027.

Decided June 6, 1925.

CERTIFICATE—AUTO STAGES—OPINION ON REHEARING.—Previous order granting certificate to George W. Wilkins, and denying application of Pickwick Stages, Northern Division, reaffirmed.

Warren E. Libby, for Pickwick Stages, Northern Division, Applicant in Application No. 8023 and Protestant in Application No. 8027.
McDonald and Thompson, by *S. W. Thompson*, for George W. Wilkins, Applicant in Application No. 8027 and Protestant in Application No. 8023.
Owens Valley Transportation Company, Protestant in Application No. 8023.
Smith Auto Company, Protestant in Application No. 8023.
White Bros., Protestant in Application No. 8023.
J. T. McAllee, Protestant in Application No. 8023.
G. F. Marsh, Protestant in Application No. 8023.
H. H. Gogarty, for Southern Pacific Company, Protestant in Application No. 8023.
T. A. Woods, for American Railway Express, Protestant in Application No. 8023.
H. H. Hunkins, for Yosemite Transportation System, Protestant in Application No. 8023.
H. W. Guthrie, for Raymond and F. Kamp (Application No. 9133), Protestant in Application No. 8023.

BY THE COMMISSION.

OPINION ON REHEARING.

By Decision No. 11722 on Applications Nos. 8023 and 8027, under date of February 27, 1923, this Commission made its order denying the application of Pickwick Stages, Northern Division, for a certificate of public convenience and necessity to operate an automobile stage service between Los Angeles and the California-Nevada state line north of Coleville, California, and intermediate points, and granting to George W. Wilkins a certificate of public convenience and necessity to operate passenger and express automobile stage service between Bishop and Cunningham via Mammoth and intermediate points.

Whereupon applicant Pickwick Stages, Northern Division, filed its application for a rehearing, which petition was granted, and a rehearing on the matters involved in the applications herein was conducted by Examiner Williams at Bishop. Subsequently, on January 8, 1925, further rehearing proceedings were had herein before Examiner Williams at Los Angeles, at which time all the parties to the record stipulated that the inadvertent absence of a previous order granting a rehearing should be waived and that the record upon rehearing taken at Bishop should be received and treated as the proper record upon rehearing herein.

The scope of the petition for a rehearing was such that the applicants and protestants were permitted to enter anew upon the production of testimony on the question of convenience and necessity of the certificate heretofore denied to applicant Pickwick Stages, Northern Division, and granted to applicant Wilkins. The question before us upon rehearing appears to be not only whether the decision upon the record in the first hearing was correct, but whether, even if correct, it should be materially modified or entirely changed in the light of an additional showing by applicant Pickwick Stages.

Applicant Pickwick Stages, Northern Division, proposes a continuous stage operation between Los Angeles and Reno, Nevada, a distance of approximately 540 highway miles. Only 100 miles of this route is

over paved highway. North of Mojave, except for a short distance, there is no paved highway. Between Lone Pine and Los Angeles the only service maintained is that of the rail line of the Southern Pacific Company, operating northerly from Mojave and terminating at Owenyo, where a connection is made with the narrow-gauge railroad of the Southern Pacific, terminating at Mina, Nevada. Between Lone Pine and Bishop the public is served by the passenger and express service of the Owens Valley Transportation Company. Between Bishop and Mono Lake (Cunningham) service is maintained by George W. Wilkins, under authority of the order contained in Decision No. 11722, which certificate for said operation is now questioned. Between Mono Lake and Bridgeport a combination passenger and freight service is maintained by protestant J. T. McAllee. Interstate service is maintained between Bridgeport and Reno by Anderson Bros., auto carriers. In view of the recent decision of the United States Supreme Court, this service may be maintained on an interstate basis without a certificate from this Commission.

From the foregoing it appears that there now exist transportation facilities over the entire route proposed by applicant Pickwick Stages, and that if the certificate granted to applicant Wilkins herein were annulled, the only region without transportation service would be the region between Bishop and Mono Lake.

Applicant Pickwick Stages proposes to superimpose upon this entire route a new service, local in its character north of Mojave, and intended to be competitive with such other operations and facilities as now exist. Well balanced regulation must require from applicant, therefore, an emphatic and convincing showing that the public necessity is such that existing authorized facilities do not and can not adequately meet the public requirements. It is further a burden upon applicant to show that the intrusion of the service proposed by it is constructive in the public interest, and not merely destructive of existing facilities without due advantage to the public.

Applicant Pickwick Stages sought to show by an array of witnesses that a service projected from Los Angeles to Reno, and serving incidentally local needs, was required by local necessities in the Owens Valley, and the preponderance of testimony is from witnesses in that region. It is unnecessary to go into detail as to the testimony of individual witnesses; but generally, they testified that a night train service was not of the same advantage as a day stage service; that tourists, now forced to use their own cars, or a combination of rail and several stage lines, would prefer a continuous stage journey in the day time; that persons seeking hunting and fishing resorts in season could travel by stage during the day to the headquarters of the camping outfits in the valley and be prepared for early morning travel with

pack animals to the mountain heights; that a daily service of express matter was desirable; and that the great camping region north of Bishop and in the Mono Lake section would receive a large number of new visitors who can not make the journey by facilities now existing. Some of these witnesses testified as to the satisfactory service now being given by the Owens Valley Transportation Company, the Wilkins line from Bishop to Mono Lake, and the stage lines that connect with the rail service. They expressed a belief that their support of applicant Pickwick Stages included with it protection of the two larger stage services in the valley. Some, also, further testified that they use their own cars and that their use of applicant's stage service would be only occasional.

Applicant Pickwick Stages proposes a daily service between Los Angeles and Bishop, leaving each terminal at 7 o'clock in the morning and completing the journey at either end at 5.45 in the afternoon. Between Bishop and Reno applicant proposes one service weekly, following the main route over the Sherwin grade via Mammoth and Mono Lake and Bridgeport on the California state line, with an alternate route, to be used only when climatic conditions prevent the use of the main road, by way of Benton to the California state line between Pallisier, California, and Queen, Nevada. The alternate route parallels to a large extent the route of the Southern Pacific narrow-gauge line between Owenyo and Mina.

Applicant Pickwick proposes to use 11-passenger stage equipment, with an express compartment on each car 4½ feet wide, 3½ feet long, and deep enough to hold an ordinary suitcase or steamer trunk. Applicant proposes to limit any express carried to 250 pounds in weight and to carry express only upon its passenger vehicles. The schedule proposed by applicant contemplates a through trip from Los Angeles to Bishop on a 11-hour basis for a distance of 288 miles. The rates to be charged may be measured by the rate from terminal to terminal, which is \$11.90 one way. Express rates proposed, as shown by comparison with those charged by the American Railway Express, are slightly higher beyond Little Lake than the rates of the rail carrier.

Stress is laid upon the fact that the through service proposed by applicant will permit a passenger to reach Carson or Reno, Nevada, by two days' travel, a stop over night being made at Bishop. The schedule of the Southern Pacific between Los Angeles and Reno requires a journey beginning at Los Angeles at 11.30 p.m., with a change of cars at Mojave at 3.24 and at Owenyo at 9.20 the following morning, another change at Laws at 12.40 p.m., reaching Mina, Nevada, the same evening at 7 o'clock. The journey from Mina is continued at 11.50 a.m. the following day, reaching Reno at 9.45 p.m. Carson is reached the following morning at 9.25 by a journey from Reno—the morning of the

third day after leaving Los Angeles. It is also stressed that applicant's proposed service north of Bishop is at points 80 miles distant from rail service and traverses regions now without rail service or adequate stage service. Applicant also stresses the fact that the combination of facilities now existing is unattractive to travelers and is used only because a more adequate or more efficient service is not available.

Inquiry into the means of transportation now existing shows that a passenger desiring to reach Bishop or intermediate points may travel via the Southern Pacific Railroad with only one change of cars, this change being at Mojave between 3 and 4 o'clock in the morning. However, daily sleeper service six days a week is maintained in both directions between Owenyo and Los Angeles, and by the use of the sleeper the discomfort of changing cars may be avoided. In any event, the passenger does not reach Laws (the railroad station four miles from Bishop) until 12.10 p.m. Also, between Los Angeles and Mojave there exists the stage service of the Packard Stage Line, operating between Los Angeles and Bakersfield via Mojave. At the original hearing this carrier was a protestant, but since that time it has been acquired by applicant Pickwick Stages and therefore did not appear as a protestant at the rehearing. Between Mojave and Lone Pine the only carrier is the Southern Pacific Railroad and its service to Lone Pine is at Owenyo station, two miles east of the community. Between Mojave and Lone Pine, a distance of 136 miles, the population is divided into a few communities having a total population of several hundred. Between Lone Pine and Bishop, a distance of 52 miles, stage service has been maintained for several years by the Owens Valley Transportation Company. Exhibits filed by this protestant showed that 80 per cent of its traffic is business originating at or destined to points beyond its terminal, the bulk of its business being to and from the Southern Pacific station at Owenyo (Lone Pine). At only one point on the route proposed by applicant does the Southern Pacific Railroad serve the community direct, and this is at Little Lake. At other points the railroad is from two to five miles distant from the communities, and at Independence and Bishop stage lines duly authorized by this Commission are operated between the communities and the railroad stations.

North of Bishop the only service maintained is by applicant Wilkins, in season, to Mono Lake, and by protestant California-Nevada Stage between Bishop and Tonopah via Benton. Beyond Mono Lake the mountain service for mail, freight and passengers of protestant McAllee is maintained to Bridgeport.

From this description it is apparent that a passenger desiring to reach Bishop or any point between Mojave and Bishop may do so by a combination of rail service and automobile stage service; that in season a passenger may go north of Bishop either by the Mammoth

road or by the Benton-Mina road, by stage. Analysis of the record shows that the service of the auto stage lines and the railroad between Lone Pine and Bishop is fairly well coordinated, and that the seasonal operation of applicant Wilkins between Bishop and Lone Pine is coordinated with the service of the Owens Valley Transportation Company. Beyond Mono Lake, however, there seems to be little attempt to coordinate the services, because of the long periods—sometimes six months—when operations can not be conducted on any sort of schedule, and often not at all, due to the great altitude of the roads and to snow conditions.

We are not impressed by any facts in the record that applicant Pickwick would be in any better position to conduct operation through the high mountain districts, over long distances, than those now conducting service, except, perhaps, in the most favorable seasons. We are, however, impressed by the fact that the rail operation between Bishop (Laws) and Nevada points is every other day and continuous throughout the year. In addition, protestant Southern Pacific Company maintains rail passenger and express service between Los Angeles and Reno, via Sacramento, on an 18-hour schedule between termini.

The operation proposed by applicant traverses a desert country, sparsely settled and inviting only to mining men, hunters and vacationists. Agriculturally, as shown by the record upon rehearing, there has been a decrease in the volume of production, and there has also been a decrease in population. While applicant stipulated that the population might be considered the census of 1920, the record shows that in 1922 there were 3322 voters in Inyo County, while in 1924 the registers showed a decrease of 544 in the number. The census of 1920 gave Inyo County a population of 7031 and Mono County a population of 960. Inyo County contains 10,244 square miles and Mono County 2796.

During the agricultural development of the north end of the Owens Valley adjacent to Bishop, Big Pine, Independence and Lone Pine, the Southern Pacific Railroad has borne the burden of transportation to and from the agricultural regions, as well as to and from the mining regions. Its passenger service has been maintained, according to the record, without profit, and its maintenance of sleeping-car accommodations is a concession to the population and is not expected to prove remunerative. The passenger service maintained by this protestant sustains in a large measure all the automobile operation now conducted from Lone Pine north to Mono Lake, and we are satisfied from a study of the record and the exhibits herein that the addition of a through carrier as proposed by applicant Pickwick would endanger the continuance of rail passenger service, and that, should it fall, all the other transportation services would be unable to subsist. Further, we are convinced from a study of the record that the establishment of

any through service must contemplate the serious impairment of all other forms of service now established. We do not believe that such derangement of existing conditions, for the convenience of those who might infrequently prefer a through journey in the day time, is justified. We are, however, impressed with the fact that the opportunity for the thousands of tourists who wish to view the magnificent scenery on the east side of the Sierra Madre range is an asset to the territory through which applicant proposes daylight stage service. We think it is true, according to the record in the present proceeding, that 90 per cent of the tourists, particularly from southern California, who make this journey use their own vehicles, and that possibly the same percentage would continue to do so if through stage service were established. There is testimony in the record that applicant Pickwick has sought to build up support for the proposed service, on the theory that it would attract tourists and visitors to the region and that applicant would aid in attracting them by advertising propaganda. Some of the witnesses regarded this as an important feature. Such a sight-seeing service, properly conducted, might be of advantage to persons engaged in maintaining recreation camps and packing outfits into the mountains, and might also be of some benefit to hunters, campers and hikers; but such service would be limited to not exceeding four months of the year and the advantage to be gained for this period for a comparatively small number of persons would not, in our opinion, justify the endangering of existing transportation facilities and the needs of the public thereby served, by a new all-year competitive operation.

In this proceeding we have had the affirmative testimony of fifty-one witnesses produced by applicant, many of whom based the necessity for service upon their own personal needs or upon their opinion of the needs of communities. These included several witnesses from Los Angeles seeking the Owens Valley resorts either on business or on pleasure; a few witnesses from Bridgeport seeking access to the Owens Valley; several owners of camps or resorts seeking additional means of transportation for guests; and many residents of the Owens Valley seeking additional transportation either to points in the valley, particularly between Lone Pine and Mojave, or to Los Angeles. The testimony as to any demand for additional transportation service between Nevada points and the Owens Valley was rather meager. On the other hand, protestants introduced thirty-four witnesses of the same classes as those produced by applicant, who expressed belief that present facilities are adequate and can not be disturbed by an additional service without endangering the continuance of rail service, which they regard as of prime importance to Owens Valley interests, both socially and industrially.

From the testimony of all these witnesses, we are of the opinion that the establishment of a new through service between Los Angeles and Bishop must carry with it the destruction of some, if not all, of the existing rail and stage services, or at least an unnecessary impairment of their ability to continue functioning, as we can not find from the record that the statistics either of population or of travel take such carriers out of the pioneering stage. In addition, we are not unmindful of the fact that the operation proposed by applicant herein, competitive in its nature, as it is, with existing lines, can not be profitable until after a considerable period of operation, and that it may become profitable only after the existing authorized carriers have been forced to retire from the field. We have not in this record any showing by applicant that it is able or well prepared to stand a long period of financial losses while maintaining the operation proposed, and we are cognizant of the geographical and population statistics of the route to be traversed to the extent that confidence in any great growth, industrial or otherwise, does not seem justified.

After full consideration of all the record herein, we are of the opinion that the order heretofore made in Decision No. 11722 upon Applications Nos. 8023 and 8027 herein should stand as originally made, without any modification, and an order will be entered accordingly.

ORDER ON PETITION FOR REHEARING.

A public hearing having been held in the above entitled proceeding, evidence having been received, the matter having been duly submitted and the Commission being now fully advised;

It is hereby ordered, that the order heretofore made in Decision No. 11722 on Applications Nos. 8023 and 8027 herein be and the same is hereby ratified and confirmed without modification.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15017.

IN THE MATTER OF THE APPLICATION OF THE WEST COAST TRANSIT COMPANY, A CORPORATION, FOR PERMISSION TO INCREASE ONE-WAY PASSENGER FARES AND COMMUTATION FARES BETWEEN SANTA ROSA AND HEALDSBURG AND THE INTERMEDIATE POINTS.

Application No. 10722.

Decided June 6, 1925.

RATES—AUTO STAGES.—Application of West Coast Transit Company authorized to increase one-way and commutation fares between Santa Rosa and Healdsburg and intermediate points.

C. A. Beck, for Applicant.

37—36855

BY THE COMMISSION.

OPINION.

This is an application filed January 9, 1925, by Dunham Stage Lines, A. Dunham, owner, changed May 9, 1925, by a supplemental application substituting the West Coast Transit Company, a corporation, as applicant, for authority under the statute to increase the one-way and commutation fares between Santa Rosa and Healdsburg and the intermediate points, as set forth in amended Exhibit "A," attached to and made a part of the application.

Since May 2, 1925, the line has been operated by West Coast Transit Company under authority of a transfer given in Decision No. 14837, Application No. 11017. By a supplemental application filed May 9, 1925, West Coast Transit Company, a corporation, was substituted as the applicant in the place and stead of the Dunham Stage Lines.

The proposed one-way fares are based on a rate of approximately 3½ cents per mile and result in increases between certain points of from 5 to 10 cents. The proposed thirty and sixty-ride commutation fares will be good for ninety days from date of purchase and base one-half the charge for a similar number of one-way fares.

A public hearing was held before Examiner Geary, May 26, 1925, and the case having been submitted is now ready for an opinion and order.

A number of exhibits were introduced, setting forth the financial condition of the company, its capital investment, a travel check of the number of passengers carried between all points, and details of the running schedules and the operations.

For the period July 1, to December 31, 1924, (Exhibit No. 1) there was an operating loss of \$1,752.47.

Since the present owners, West Coast Transit Company, took over the properties new and better equipment has been installed and the running schedules improved. Three new busses, having a value of \$16,000, with respective capacities for 26, 18 and 15 passengers, are now in operation.

Exhibit No. 5 shows that for the six months ending December 31, 1924, the operating revenue was 0.158 cents per car mile, the operating costs 0.195 cents per car mile, making an operating loss per car mile of 0.037 cents.

The chambers of commerce of Santa Rosa and Healdsburg, in written communications, admitted as exhibits, advised they had investigated the financial accounts of applicant and approved the fare changes proposed as necessary for continual operation of satisfactory service. There were no appearances in opposition, although notice of the hearing was mailed to interested parties.

From the facts developed it is manifest applicant should be given the relief sought.

We conclude and find, in view of the circumstances of record in the proceeding, that the present one-way fares and the commutation fares between Santa Rosa and Healdsburg and the intermediate points are unjust, unreasonable and insufficient and that the just and reasonable fares are those set forth in Exhibit "A" attached to and made a part of the application.

The applicant should be required to submit to the Commission on or before the twentieth (20th) day of each month, for a period of six (6) months, a statement showing the number of passengers handled at all points between Santa Rosa and Healdsburg, the earnings and expenses. The revenue and expenses should be compiled in conformity with the Commission's order of January 1, 1922, uniform classification of accounts.

ORDER.

This application having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had and basing this order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that West Coast Transit Company, a corporation, be and it is hereby authorized to establish within twenty (20) days from the date hereof the one-way and commutation fares applying between Santa Rosa and Healdsburg and the intermediate points, as set forth in Exhibit "A," attached to and made a part of the application.

It is hereby further ordered, that West Coast Transit Company, a corporation, file with this Commission on or before the twentieth (20th) day of each month, for a period of six (6) months, beginning with the first day of the month after the new rates become effective, a statement showing the number of passengers handled at all points between Santa Rosa and Healdsburg, the earnings and expenses. The revenue and expenses should be compiled in conformity with the Commission's order effective January 1, 1922, uniform classification of accounts.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15018.

IN THE MATTER OF THE APPLICATION OF THE PASADENA ELECTRIC EXPRESS COMPANY FOR AN ORDER GRANTING PERMISSION TO ISSUE A NOTE FOR A PERIOD OF TWELVE MONTHS AFTER DATE THEREOF.

Application No. 10724.

Decided June 6, 1925.

SECURITIES—NOTES—To ISSUE.—Application denied without prejudice.

W. H. Archdeacon, for Applicant.

C. H. Tribit, Jr., for Richards Trucking and Warehouse Company.

Phil Jacobson, for Sierra Van and Storage Company and Joe and Ed's Express.

BY THE COMMISSION.

OPINION.

In this application Pasadena Electric Express Company asks permission to issue a one-year 12 per cent note for \$22,000, secured by a second trust deed, for the purpose of paying indebtedness and of financing the cost of additions, betterments and improvements.

Applicant reports that it is the owner of certain real estate located in the city of Los Angeles at No. 447 Commercial street and having a frontage of 100 feet on Commercial street and extending back 200 feet to Aliso street. The improvements consist, principally, of a four-story fireproof Class "A" concrete building which is used as a warehouse. Applicant reports the estimated value of the land and improvements at about \$165,000.

The record shows that the property is encumbered by a mortgage securing the payment of a 7 per cent note originally for \$50,000 due October 11, 1933, in favor of Mortgage Guarantee Company and by a second mortgage securing the payment of a 7 per cent note originally for \$18,000 due October 11, 1925, in favor of Hammond Lumber Company. It appears that \$1,500 has been paid on the \$50,000 note and \$3,250 on the \$18,000 note.

Applicant now asks permission to execute a new mortgage and to issue a new note for \$22,000 for the purpose of paying the \$14,750 remaining due on the note held by Hammond Lumber Company and to finance in part the cost of improvements estimated to cost \$7,887.93 as more fully described in the application. The proposed mortgage will be a second lien on the properties referred to herein and the note will run for one year with interest at 12 per cent.

W. H. Archdeacon, applicant's vice president, testified that arrangements had been made to borrow the money from Standard Mortgage Company if the issue of the note is authorized by the Commission. He stated that the terms offered by that company were the best he had received. While that may be the case, the evidence before the Commission does not justify it to authorize the issue of a 12 per cent note. The application should be denied without prejudice.

C. H. Tribit and Phil Jacobson raised a question as to applicant's rights to operate trucks. This is not the proper proceeding to determine that issue.

ORDER.

Pasadena Electric Express Company having applied to the Railroad Commission for permission to execute a mortgage and to issue a note, a public hearing having been held before Examiner Fankhauser and

the Railroad Commission being of the opinion that the application should be denied without prejudice;

It is hereby ordered, that the above entitled application be and it hereby is denied without prejudice.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15023.

IN THE MATTER OF THE APPLICATION OF CITIZENS' WATER COMPANY OF NILES FOR LEAVE TO BORROW EIGHT THOUSAND DOLLARS TO BE SECURED BY MORTGAGE.

Application No. 11137.

Decided June 6, 1925.

SECURITIES—NOTES—To ISSUE.—Application granted.

Oliver Ellsworth, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Citizens' Water Company of Niles asks permission to execute a mortgage and to issue its two-year 6 per cent note for \$8,000 for the purpose of paying outstanding indebtedness and of financing the cost of additional property.

By Decision No. 13601, dated May 24, 1924, (Vol. 24, Opinions and Orders of the Railroad Commission of California, page 940), the Commission authorized applicant to execute a mortgage and to issue a 6 per cent promissory note for \$4,500 for the purpose of paying indebtedness, representing the cost of pipe lines and laterals, and of financing the cost of additions and betterments consisting of distributing mains and hydrants. It appears that \$750 of the note authorized by Decision No. 13601 has been paid, leaving \$3,750 now outstanding.

Applicant proposes to use \$3,750 of the proceeds it will receive through the issue of the \$8,000 note now applied for to pay this remaining outstanding indebtedness. It proposes to use the balance, \$4,250, to finance in part the cost of an auxiliary pumping plant, consisting of real estate, pump, piping, equipment and labor, segregated as follows:

1. Real Estate—	
Lot 30 feet by 140 feet on south end of I street near Alameda Creek	\$400 00
2. Personal Property—	
90 feet 12-inch No. 12 R. & H. double well casing	271 64
1 60-foot turbine pump 400 gallons capacity with 35 horsepower	
F. M. motor, chrome nickel steel shaft, installed	1,465 00
8-inch elbows, flanges, tees, crosses, gaskets, bolts, etc.	172 41
Hollow-tile building 12 feet by 16 feet, iron roof, cement floor (contract)	300 00
3. H. W. Norman, well driller, labor	539 00

4. Cost connecting with present mains-----		\$1,237 60
969 feet 8-inch redwood pipe-----	\$811 99	
80 feet casing-----	87 53	
5 8-inch and 6-inch valves-----	120 29	
Freight and drayage-----	26 79	
Labor-----	191 00	
Total-----		\$4,385 65

The record shows that applicant obtains its water supply from wells, located at or near Niles, which are owned and operated by J. C. Shinn, under a twelve-year contract and lease, dated August 21, 1917. It appears that applicant has found it necessary to develop an additional source of supply to be used as a reserve or auxiliary plant in the event of any accident occurring in the operation of the wells belonging to J. C. Shinn or of any shortage in the volume of water delivered. For this reason it has acquired property and constructed the plant to which reference is made. The testimony indicates that the new plant is capable of supplying about two-thirds of the amount of water required by applicant's consumers.

It appears that The Bank of Alameda County is willing to accept applicant's note for \$8,000 with interest at 6 per cent, payable two years after date, with the right granted applicant to make payments of not less than \$250 on any interest payment date. The note will be secured by a mortgage which will be a lien on all of applicant's properties. A copy of the proposed mortgage is attached to the petition as Exhibit "B" and appears to be in satisfactory form.

ORDER.

Citizens' Water Company of Niles, having applied to the Railroad Commission for permission to execute a mortgage and to issue a two-year note for \$8,000, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required by applicant for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Citizens' Water Company of Niles be and it hereby is authorized to execute a mortgage substantially in the same form as that attached to the application herein and marked Exhibit "B," and to issue on or before July 31, 1925, its promissory note in the principal amount of \$8,000 payable on or before two years after date with interest at not exceeding 6 per cent per annum, and to use the proceeds to pay the indebtedness of \$3,750 and to reimburse its treasury and to finance the cost of the additions and betterments of \$4,250 to which reference is made in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute a mortgage is for the purpose of this proceeding only, and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

2. Within thirty days after the issue of the note herein authorized, applicant shall file with the Commission a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15024.

IN THE MATTER OF THE APPLICATION OF SAN BENITO COUNTY LAND AND WATER COMPANY, A CORPORATION, FOR PERMISSION TO RENEW A CERTAIN PROMISSORY NOTE AND TO EXECUTE A MORTGAGE TO SECURE SAID NOTE.

Application No. 11141.

Decided June 6, 1925.

SECURITIES—NOTES—To ISSUE.—Application granted.

Thoms E. O'Donnell, for Applicant.

BY THE COMMISSION.

OPINION.

San Benito County Land and Water Company asks permission to issue a \$50,000 one-year note bearing interest at not to exceed 7 per cent per annum and use the proceeds to pay a \$50,000 one-year 7 per cent note issued pursuant to the authority granted by Decision No. 7277, dated March 17, 1920, as amended.

By said Decision No. 7277 the Commission authorized applicant to issue two notes, one for \$50,000 and another for \$25,000. The \$25,000 note has been paid but no payments have been made on the \$50,000 note. The interest on such note, however, has been regularly paid.

Applicant also asks permission to execute a mortgage substantially in the same form as the mortgage filed in this proceeding and marked Exhibit "B" to secure the payment of the \$50,000 note which it asks permission to issue. The mortgage is in satisfactory form. It will be a lien on all of applicant's real property, the original cost of which is reported by applicant at \$120,000 and the present value at \$150,000.

ORDER.

San Benito County Land and Water Company, having applied to the Railroad Commission for permission to issue a \$50,000 note and to execute a mortgage, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such note is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Benito County Land and Water Company be and it is hereby authorized to issue a \$50,000 note payable one year after date with interest at not to exceed 7 per cent per annum and use the proceeds obtained from the issue of such note to pay the \$50,000 note now held by the Bank of Italy and referred to in this application.

It is hereby further ordered, that San Benito County Land and Water Company be and it is hereby authorized to execute a mortgage substantially in the same form as the mortgage attached to the petition herein and marked Exhibit "B" provided, that the authority herein granted to execute said mortgage is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

It is hereby further ordered, that the authority herein granted to issue a note and execute a mortgage will become effective upon the date hereof and that San Benito County Land and Water Company shall file with the Railroad Commission a report, as required by the Railroad Commission's General Order No. 24, which order is made a part of this order.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15025.

IN THE MATTER OF THE APPLICATION OF FEDERAL TELEGRAPH COMPANY, FOR AN ORDER AUTHORIZING THE ISSUE OF FIFTY THOUSAND NINE HUNDRED EIGHTY-ONE AND FIFTY ONE-HUNDREDTHS SHARES OF ITS CAPITAL STOCK.

Application No. 11144.**Decided June 6, 1925.**

SECURITIES—STOCK—TO ISSUE.—Application granted.***Pillbury, Madison and Sutro*, by *Chas. A. Ruggles*, for Applicant.****BY THE COMMISSION,**

OPINION.

Federal Telegraph Company, in the above entitled matter, asks permission to issue and sell, at not less than \$8 a share, 50,981.50 shares of its common capital stock of the par value of \$10 each, for the purpose of financing, in part, the cost of radio equipment.

The application shows that applicant is engaged in the business of transmitting telegraphic messages by means of wireless telegraphy upon the Pacific seaboard, principally between the cities of Portland, Seattle, San Francisco, Los Angeles and San Diego, and also between ships on the Pacific Ocean and the Pacific coast, and in the manufacture of radio apparatus, which is used by it in its operations and is also sold to the general public. Annual reports filed by the company with the Commission show its revenues and expenses as follows:

Item	1924	1923
Telegraph operating revenues-----	\$598,884 56	\$586,266 28
Other operating revenues-----	54,824 58	55,995 26
Nonoperating income -----	1,920 90	3,088 87
Total -----	\$655,630 04	\$646,250 41
Telegraph operating expenses-----	\$478,557 41	\$467,902 85
Other operating expenses-----	37,592 74	31,455 73
Total -----	\$516,150 15	\$499,358 58
Operating income -----	\$139,479 89	\$146,891 83
Deduct—		
Interest on funded debt-----	\$30,666 68	\$38,337 76
Rentals -----	52,926 12	56,003 79
Other -----	14,456 86	13,230 83
Total -----	\$98,049 66	\$107,662 38
Net income -----	\$41,430 23	\$39,229 45

Applicant has an authorized capital stock of \$3,500,000, divided into 350,000 shares of the par value of \$10 each, all common. On December 31, 1924, the company reported \$2,989,890.50 of stock outstanding in the hands of the public, and \$294.50 reacquired, leaving \$509,815 unissued. As of the same date it reported outstanding \$300,000 of 8 per cent serial gold notes maturing at the rate of \$100,000 a year on the first day of November of the years 1925 to 1927, inclusive; \$301,000 of short-term notes; and \$92,330.26 of miscellaneous accounts payable.

The company now reports that it intends to go into the business of manufacturing, or buying, and selling radio receiving and transmitting sets. To this end it has entered into a contract, a copy of which it filed in this proceeding as Exhibit No. 2, with Brandes Products Corporation of New Jersey, providing for the manufacture by that corporation of 40,000 radio receiving sets, known as the Kolster 6 and Kolster 8 sets, and the delivery to applicant of 20,000 of such sets during 1925, 10,000 during 1926, and 10,000 during 1927. It is believed

that the contract price for the equipment will be about \$2,000,000, exclusive of the items of cost which, under the contract, must be paid by applicant.

Applicant proposes to finance some of the cost of the radio equipment through the sale of the remaining unissued \$509,815 of stock. It asks permission to sell its stock at not less than 80 per cent of par value and it reports that it desires to offer its stock, at this price, to its present stockholders at the rate of .1705 shares for each share now held and thereafter to sell any shares unpurchased at the same price, publicly or privately as the board of directors may determine. It is of record that applicant's present stockholders may purchase all of the stock.

ORDER.

Federal Telegraph Company, having applied to the Railroad Commission for permission to issue and sell \$509,815 of stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Federal Telegraph Company be and it is hereby authorized to issue and sell for cash at not less than \$8 per share, 50,981.50 shares of its capital stock of the aggregate par value of \$509,815 and to use the proceeds to finance in part the cost of the equipment to which reference is made in the preceding opinion.

The authority herein granted is subject to the following conditions:

1. Federal Telegraph Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof, but under such authority no stock may be issued, sold or delivered after December 31, 1925.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15032.

IN THE MATTER OF THE INVESTIGATION OF GAS RATES, SERVICE,
AND OPERATIONS OF COAST COUNTIES GAS AND ELECTRIC
COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1660.

Decided June 6, 1925.

RATES—GAS—AUTOMATIC ADJUSTMENT.—Rates reduced.

BY THE COMMISSION.

SIXTH SUPPLEMENTAL ORDER.

Whereas, In Decision No. 9840 (20 C. R. C. 952), in the above entitled matter, this Commission provided, with reference to schedules Nos. 1, 2 and 5 of the Coast Counties Gas and Electric Company, that such rates would be subject to increase or decrease upon approval of the Railroad Commission, on the basis of 3 cents per thousand cubic feet for each 10 cents increase or decrease, respectively, in the price of oil above or below the price of \$1.65 per barrel in Santa Cruz and \$1.73 per barrel in Watsonville; and

Whereas, In Decision No. 9725 (20 C. R. C. 810), this Commission provided, with reference to schedules Nos. 1 and 3 therein established for Contra Costa Gas Company, that such rates would be subject to increase or decrease upon approval of the Railroad Commission on the basis of 3 cents per thousand cubic feet for each 10 cents increase or decrease, respectively, in the price of oil above or below the price of \$1.64 per barrel f. o. b. Pittsburg; and

Whereas, the property of Contra Costa Gas Company has been purchased by Coast Counties Gas and Electric Company and schedules Nos. 1 and 3 of Contra Costa Gas Company are now known as schedules Nos. 7 and 9 of Coast Counties Gas and Electric Company; and

Whereas, Coast Counties Gas and Electric Company now makes affidavit that on May 16, 1925, the price paid for oil was reduced to \$1.70 per barrel in Santa Cruz, \$1.78 per barrel in Watsonville, and \$1.61 per barrel in Pittsburg, which is five cents more than the base rate upon which rates were established in Decision No. 9840 for Santa Cruz and Watsonville, and three cents less than the base price upon which rates were established in Decision No. 9725 for Pittsburg;

It is hereby ordered, that Coast Counties Gas and Electric Company reduce the rates designated as schedules Nos. 1, 2 and 5, effective for all regular meter readings taken on and after June 16, 1925, so that said rates shall be one cent per thousand cubic feet more than the basic rates set forth in Decision No. 9840, and reduce the rates designated as schedules Nos. 7 and 9, effective for all regular meter readings taken on and after June 16, 1925, so that said rates shall be one cent less than the basic rates set forth in Decision No. 9725.

It is hereby further ordered, that Coast Counties Gas and Electric Company file with the Commission, a revision of its schedules to comply with this order on or before June 15, 1925.

Dated at San Francisco, California, this sixth day of June, 1925.

DECISION No. 15042.

IN THE MATTER OF THE APPLICATION OF HAPPY VALLEY TELEPHONE COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING THE ESTABLISHMENT OF CERTAIN CHARGES FOR THE ESTABLISHMENT AND RE-ESTABLISHMENT OF SERVICE CONNECTIONS AND THE FILING OF RULES AND REGULATIONS PROVIDING THEREFOR.

Application No. 11151.

Decided June 13, 1925.

RATES—TELEPHONE UTILITY—SERVICE CHARGES.—Happy Valley Telephone Company authorized to establish service charges.

BY THE COMMISSION.

ORDER.

Whereas, Happy Valley Telephone Company having filed an application with this Commission requesting authority to file and place in effect certain rules and regulations relative to service charge for restoration of service, service installation charges, service connection charges, and other rates similar to those now in effect by other telephone utilities; and

Whereas, this Commission found certain rules and regulations to be reasonable in its Decision No. 8146 (18 C. R. C. 912), dated September 24, 1920, and in its Decision No. 13478 (24 C. R. C. 854), dated April 24, 1924; and there appearing no good reason why applicant should not now file and place in effect similar rules and regulations;

It is hereby ordered, that Happy Valley Telephone Company be and it is hereby authorized to file with this Commission, effective as of August 1, 1925, the following rules and regulations:

A. *Service Connection Charges.*

Service connection charges provided for hereunder are payable at the time application for the particular service or facility is made and are in addition to the regular schedule of rates.

Service connection charges apply to all exchange service and facilities, in accordance with the following provisions:

1. New service:

Party lines—

Business and residence, each station----- \$2 00

Extension stations—

Business and residence, each station----- 1 50

2. Additional service:

Party lines—

Business and residence, each station----- 2 00

Extension stations—

Business and residence, each station----- 1 50

3. Service where instrumentalities are already in place on subscribers' premises:

Business and residence, subscribers' exchange service, except
farmer line service, one or more units----- 1 50

A change in location or type of instrumentalities made at subscriber's request is subject to the charges for moves and changes provided the total charges for such moves and changes shall not exceed the charges for the initial establishment of the subscriber's complete service and facilities.

Service connection charges do not apply under the following conditions:

Business service—

- (a) When service is assumed by a receiver or by trustee, executor or administrator of an estate.
- (b) Change in the name of the business concern (i. e., individual, partnership, syndicate or corporation) when there is no complete change in ownership or management.

Residence service—

- (a) When service is assumed by a member of the former subscriber's family located in the same premises.
- (b) When there is no change in the individuality of the recipient.
- (c) When the subscriber's name has been changed by marriage or court order.
- (d) When an employer has arranged for service in the residence of his employee and the latter desires personally to assume the responsibility for the service or when the responsibility for the service of an employee is to be assumed by his employer.

B. Definitions, rules and regulations governing telephone service, similar to those definitions, rules and regulations contained in this Commission's Decision No. 13478, except as modified in section A above, and as may be approved by this Commission.

Provided that said rules and regulations be filed with this Commission within thirty (30) days of the date of this order.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this thirteenth day of June, 1925.

DECISION No. 15048.

IN THE MATTER OF THE APPLICATION OF MADERA GAS COMPANY
FOR CHANGE IN BASIC RATE AND ESTABLISHMENT OF JUST
AND REASONABLE RATES.

Application No. 10933.

Decided June 13, 1925.

RATES—GAS UTILITY—AUTOMATIC ADJUSTMENT.—Madera Gas Company authorized to adjust restaurant rate.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission having, in Decision No. 14943, dated May 18, 1925, authorized certain changes in Schedule "A" of Madera Gas Company, but said Decision No. 14943 having made no mention of Schedule "B" of Madera Gas Company, and the Railroad Commission being of the opinion that the evidence in this proceeding justifies similar changes in both schedules and that the omission of Schedule "B" from the above-mentioned decision should be corrected;

It is hereby ordered, that Madera Gas Company establish its rate designated as Schedule "B" at a basic rate of \$1.60 per thousand cubic feet, with a minimum charge of \$25 per month, when the cost of oil is \$2.40 per barrel or more f. o. b. Madera, and that such rate, with the exception of the minimum charge, shall be subject to decrease upon the basis of 2.9 cents per thousand cubic feet for each ten cents per barrel

that the price of oil is less than \$2.40 per barrel, such decrease to be calculated to the nearest one cent.

It is hereby further ordered, that Madera Gas Company file with this Commission on or before July 1, 1925, the foregoing rate, reduced by 16 cents per thousand cubic feet to correspond to the present price of oil of \$1.85 per barrel, such schedule to be effective on all regular meter readings taken on and after July 15, 1925.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this thirteenth day of June, 1925.

DECISION No. 15049.

IN THE MATTER OF THE APPLICATION OF WHITTIER HOME TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AUTHORITY TO WITHDRAW TELEPHONE SERVICE FROM CERTAIN TERRITORY IN MONTEBELLO.

Application No. 11088.

Decided June 13, 1925.

SERVICE—TELEPHONE UTILITY—DISCONTINUANCE.—Whittier Home Telephone and Telegraph Company authorized to withdraw its service in city of Montebello, now served by Montebello exchange of Southern California Telephone Company.

Ernest Irwin, for Applicant.

J. L. Adams, for Southern California Telephone Company, and The Pacific Telephone and Telegraph Company.

Paul G. McIver, for the City of Montebello.

BY THE COMMISSION.

OPINION.

This is a proceeding in which the Whittier Home Telephone and Telegraph Company requests this Commission for authority to withdraw service from certain subscribers now receiving service outside of applicant's authorized territory and within the corporate limit of the city of Montebello.

A hearing in this matter was held before Examiner Satterwhite in the city of Montebello on May 29, 1925, at which time and place the matter was submitted.

At the present time applicant is furnishing telephone service to four subscribers within the city of Montebello. These subscribers are connected to one line which extends from Whittier into the city of Montebello, and is located on a pole line owned by the United States Long Distance Telephone and Telegraph Company. At the request of the city of Montebello, the circuits of the United States Long Distance Telephone and Telegraph Company are to be removed and placed underground.

Applicant states that a new route for its lines can only be obtained at a great expense, that the city of Montebello is outside of the territory in which it may render new service, that the city of Montebello is now in the territory being served by the Southern California Telephone Company, and for these reasons applicant requests that it be allowed to abandon this line and discontinue service to the subscribers connected to it. The present four subscribers are at this time being served by applicant in accordance with this Commission's Decision No. 2029 (5 C. R. C. 952), dated December 28, 1914, and Decision No. 3081 (9 C. R. C. 146), dated February 7, 1916, which required applicant to continue service to some eight subscribers existing as of that time. Of these four subscribers now remaining, one has in reality discontinued service, although the telephone instrument has not been removed from the subscriber's premise.

There was no objection to applicant's request, except from the city of Montebello and Dr. J. S. Trewhella, both of whom have services connected to the line herein involved. The city of Montebello would have no objection if it could be assured that it would receive fast and efficient toll service between Montebello and Whittier. Dr. Trewhella states that he has need for both Whittier and Montebello service, and objects to applicant's request due to the slow service which he believes will result and the higher cost to him if his Whittier service is removed and he is required to call between Montebello and Whittier by means of toll service.

Applicant is in a position of operating a single line in a territory wherein it can never expect to receive any additional subscribers, and also, is under great expense at present and will be under greater expense in the future, to maintain this line. It does not appear reasonable to expect applicant, nor is it just to applicant's other subscribers to require it to continue this line into Montebello under the rates now being charged.

This Commission, in its Decision No. 14420 (25 C. R. C. 721), dated December 31, 1924, authorized the Southern California Telephone Company to establish a foreign exchange service which, in general, provides a means whereby a subscriber in one exchange may obtain service from any other exchange. There appears to be no reason why this foreign exchange type of service should not be made available in Montebello, which will not only allow the subscribers on the line involved herein, but any subscriber in Montebello to obtain direct Whittier service. Both applicant and Southern California Telephone Company have already indicated their willingness to render foreign exchange service under such rates as this Commission may fix. With the completion of the installation of direct toll circuits by The Pacific Telephone and Telegraph Company between Whittier and Montebello, which is now in

progress, fast and efficient toll service will be available between these two cities. The installation of these toll circuits, together with the availability of foreign exchange service, should satisfy the objections in this proceeding. There appears to be no reason why applicant's request should not be granted.

ORDER.

The Whittier Home Telephone and Telegraph Company having made application to this Commission for authority to withdraw service from certain subscribers now receiving service outside applicant's authorized territory, and within the corporate limit of the city of Montebello, a public hearing having been held and the matter having been submitted and now ready for decision;

The Railroad Commission of the State of California hereby finds as a fact that applicant should not be required to continue the existing service now furnished in the city of Montebello under the rates now being charged, and that applicant should make arrangements with the Southern California Telephone Company for the establishment of foreign exchange service in Montebello, under rates to be approved by this Commission.

Basing its order on the foregoing findings of fact and on such other findings and statements of fact as are set forth in the opinion preceding this order;

It is hereby ordered, that Whittier Home Telephone and Telegraph Company be and it is hereby ordered to discontinue rendering Whittier exchange service outside of applicant's authorized territory and within the corporate limit of the city of Montebello, on and after July 1, 1925, providing Whittier Home Telephone and Telegraph Company submits information to this Commission on or before July 1, 1925, showing that arrangements have been made with Southern California Telephone Company for the establishment of Whittier foreign exchange service within the Montebello exchange area under such rates as this Commission may authorize for such service.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this thirteenth day of June, 1925.

DECISION No. 15050.

IN THE MATTER OF THE APPLICATION OF ED. FLETCHER, SOLE SURVIVING PARTNER OF THE PARTNERSHIP FORMERLY COMPOSED OF JAMES A. MURRAY, NOW DECEASED, ED. FLETCHER AND WILLIAM G. HENSHAW, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF CUYAMACA WATER COMPANY, FOR AN ORDER AUTHORIZING THE SALE OF A CERTAIN WATER SYSTEM IN SAN DIEGO COUNTY, NOW OWNED AND OPERATED BY SAID COPARTNERSHIP, TO THE LA MESA, LEMON GROVE AND SPRING

VALLEY IRRIGATION DISTRICT, OF THE COUNTY OF SAN DIEGO,
STATE OF CALIFORNIA.

Application No. 10619.

Decided June 15, 1925.

TRANSFER—WATER UTILITY.—Cuyamaca Water Company authorized to transfer the major portion of its public utility properties to La Mesa, Lemon Grove and Spring Valley Irrigation District for the sum of \$1,100,000, and also the Mission Gorge dam site, lands and water rights, if it desires, for the sum of \$150,000.

Crouch and Sanders, and Flint and MacKay, by Arthur R. Smiley, for Applicant.

S. J. Higgins, City Attorney, for the City of San Diego.

Sweet, Stearns and Forward, by F. W. Stearns, for the La Mesa, Lemon Grove and Spring Valley Irrigation District.

Jesse George, for Fred M. Patterson et al.

Titus and Macomber, by F. J. Macomber, for the Boston Ranch.

P. S. Thatcher, City Attorney, for City of El Cajon and for the El Cajon Valley.

W. Garfield, for K. B. Finley et al.

Herbert Kelly, for Jerry Sullivan et al.

C. S. Preston, for Fred M. Patterson et al.

Henry J. Parker, in propria persona.

James O'Keefe, City Attorney, for the City of La Mesa.

BRUNDIGE, SQUIRES and DECOTO, Commissioners.

OPINION.

In this proceeding Ed. Fletcher, sole surviving partner of the partnership formerly composed of James A. Murray, now deceased, Ed. Fletcher and William G. Henshaw, doing business under the firm name and style of Cuyamaca Water Company, asks authority to transfer the major portion of its public utility properties to La Mesa, Lemon Grove and Spring Valley Irrigation District. It is alleged in the application in this proceeding that said district is duly organized and existing under and by virtue of the laws of the State of California and is fully empowered to acquire and operate said water system.

La Mesa, Lemon Grove and Spring Valley Irrigation District has filed a statement in this proceeding setting forth that it has legally exercised the option to purchase the properties, authority to transfer which is requested in the application herein, and that on the seventh day of November, 1924, said district voted bonds wherewith to provide payment of the purchase price of the properties mentioned in said application herein, and further states that it is the intention of said irrigation district to complete the transaction and accept title to said properties upon approval of this application by the Railroad Commission.

The application in this matter further alleges in effect that Cuyamaca Water Company is now engaged in the business of supplying water to the district, and to the area included in the district as well as the distribution of water for domestic and agricultural purposes to munici-

palities, towns and private consumers of water in San Diego County; that by reason of the death of James A. Murray the copartnership was dissolved, and said applicant as sole surviving partner is by law obligated to settle the affairs of said partnership without delay, which can best be accomplished by the sale of its properties; and that it is to the best interests of the public that said district acquire this water system that it may own the water production and distribution facilities supplying it with water. Wherefore the Commission is requested to authorize the transfer of the properties according to the terms and conditions set out in the application herein.

The option of purchase excludes that portion of the distribution system of Cuyamaca Water Company serving the territory known as Normal Heights and Kensington Park, which are located outside of the city limits of the city of San Diego, and also outside of the proposed boundaries of the district, but provides for the sale by the district to applicant of sufficient and adequate water to supply this area. The option also provides for the purchase of Mission Gorge dam site, including certain lands and water rights, by the district, if it desires, for the sum of \$150,000.

The city of San Diego filed formal protest against the granting of this application, alleging that the Cuyamaca Water Company proposes to transfer to the district a right to eleven million gallons daily of the waters of the San Diego River; that the city of San Diego by reason of its being the successor to the Mexican pueblo of San Diego, is the owner of the prior and paramount right to the use of all the waters of the San Diego River and that the proposed transfer of these rights would be an interference with the rights of the city of San Diego upon the river and to the waters thereof. In a supplemental protest the city further alleges that it is now and for the past ten years has been a consumer of the Cuyamaca Water Company, and as a consumer, protests against the proposed transfer for the reason that the city would be deprived of the water now being purchased from the company, as the district can not legally sell water to consumers residing outside of the district boundaries; that the present supply of water will all be used by the district, and as it can not legally develop the additional supply of water to meet its requirements, the consumers outside the district will be deprived of the water to which they are entitled.

Formal protests were filed by one Fred H. Patterson and also by S. F. Wysoki et al., being irrigation consumers of the Cuyamaca Water Company, residing in the El Cajon Valley, alleging that they will be deprived of water for irrigation purposes; that the terms of the option contract of sale and purchase are discriminatory against protestants, giving advantage to lands owned by Fletcher and Thumb; that no water

is reserved or provision made for supplying water to protestants and other landowners of El Cajon Valley.

Protests against the granting of this application were filed by J. H. Murphy and certain other property owners and taxpayers upon the ground that the title of applicant to the waters, reservoir sites and dam sites sought to be sold to the district is in litigation in the courts and the Commission is therefore requested to refuse authority for the sale of these properties until such litigation is ended. A similar protest was filed by K. B. Finley and certain others residing in the La Mesa, Lemon Grove and Spring Valley District.

Joseph C. Tyler, M. S. Sprague and Vincent Whitney, owners of the Boston ranch, filed a conditional protest in which it was alleged that a considerable sum of money had been expended by the former owners of said ranch under agreement with applicant for the delivery of water to irrigate said ranch. For this reason protestants requested that the sale of applicant's water system be authorized unless the purchaser thereof assumes all the liabilities to continue water service to said ranch under the terms of said agreement.

The Cuyamaca Water Company has been before the Railroad Commission on numerous occasions in the past, the decisions rendered in many of these cases having contained a very full and complete description of the system and the methods of operation. For this reason it will be unnecessary to go into these matters further in this proceeding.

Public hearings in this proceeding were held in San Diego on the twentieth and twenty-first days of January, 1925, after all interested parties had been duly notified and given an opportunity to appear and be heard.

At the hearing Thomas H. King, engineer for the district, testified that the La Mesa, Lemon Grove and Spring Valley Irrigation District was organized November 1, 1913, and that it included at that time an area of about 13,000 acres; that the water development on the San Diego River as now proposed by the district would produce in connection with the Cuyamaca Water Company supply, a net safe yield of 12,300 acre-feet annually, or eleven million gallons daily; that the quantity of water would permit the district to extend its boundaries to include 19,500 acres, and also would provide ample water for all the company's consumers located outside the district boundaries, which the district would be obligated to serve and would also agree to serve. It was also shown by Mr. King that the purchase price of the Cuyamaca system was \$1,100,000; that on November 7, 1924, the district had devoted bonds in the amount of \$2,500,000 to provide funds for the purchase of the Cuyamaca system under the terms of the option herein set forth for the purpose of developing more water on the San Diego River and

to provide facilities for the further extension of the present distribution system to serve the district area.

The evidence shows that the district's entire project had been approved by the state engineer, and that the California Bond Certification Commission had approved of the district issuing bonds to the extent of \$2,500,000, and that on November 7, 1924, the people of the district voted that amount of bonds.

In answer to the objections of representatives of the city of San Diego and of representatives of various consumers now outside the district boundaries, the officials of the district testified that it was the intention and desire of the district to assume all the service obligations of the Cuyamaca Water Company, and said officials further agreed to provide service to all the present consumers located outside the present boundaries. The evidence indicates that the present boundaries of the district can be extended to include a large area now served by the Cuyamaca Water Company but at present outside of the district area, and no apparent reason exists, so far as the testimony is concerned, which would preclude the district from serving water to consumers located beyond its legally constituted boundaries.

The city of San Diego contended that by virtue of being the successor of the Mexican pueblo of San Diego, it is the owner of the paramount rights to all of the waters of the San Diego River, and that the city had already duly voted bonds to construct a dam and storage reservoir at El Capitan, being the first unit of a very comprehensive water supply development of the San Diego River.

The various conflicting claims to the prior water rights in this river clearly indicated to the Commission that unless there could be effected through negotiation and agreement a voluntary settlement of these disputes, that the costly litigation already in progress over these water rights in all probability would continue for many years and result in seriously delaying the proposed plans of both the district and the city of San Diego to complete their respective projects for the development of the resources of the San Diego River.

In order to avoid these difficulties it was suggested by the Commission that informal negotiations be undertaken to the end that a plan for the joint development of the river be worked out which would be acceptable both to the city of San Diego and the district.

Informal conferences were held in San Francisco on January 29, and on February 20 and 21, 1925, in which the Commission, the city of San Diego, the La Mesa District and the Cuyamaca Company participated, and a plan was worked out which it was believed was fair and equitable and to the mutual advantage both of the city and the people of the district and which would permit the immediate development of the waters of the river in the benefits of which both would share. After

agreement had been reached upon the terms of the proposed settlement it was the expressed desire of the officers of the city of San Diego that the terms of the proposed settlement be submitted to the people of San Diego for their approval or disapproval at an election to be speedily called. With this proposal the Commission was in full accord, and, in order that the issues involved in the proposed settlement might not be further complicated or the voters of the city of San Diego in any way influenced in their judgment in this matter the Commission felt that it was proper and desirable that the decision in the matter of the application for a sale of the property of the Cuyamaca Company to the La Mesa, Lemon Grove and Spring Valley Irrigation District be withheld pending such election. For various reasons delay in calling such election ensued. In order that the people of San Diego be given full opportunity to express their views at such election when it became certain that an election could not be called and held before the expiration of the date of the option for purchase given by the company to the district, the Commission requested an extension of the option from May 7, 1925, to June 17, 1925. This extension of the option to purchase was granted. At this time an election has not yet been called by the city council of San Diego and it is apparent to the Commission that the prospect of submitting to the people of San Diego the proposed settlement now is so remote that there appears to be no good or sufficient cause for longer withholding decision in the present proceedings.

After a careful consideration of the testimony and the evidence presented in this proceeding, it is believed that public interest will best be served by the granting of this application.

The following order is recommended:

ORDER.

Ed. Fletcher, sole surviving partner of the partnership formerly composed of James A. Murray, now deceased, Ed. Fletcher and William G. Henshaw, doing business under the firm name and style of Cuyamaca Water Company, having filed application for authority to transfer certain public utility property to the La Mesa, Lemon Grove and Spring Valley Irrigation District, and said district having filed a petition signifying its desire to purchase said system, public hearings having been held thereon and the matter having been submitted;

It is hereby ordered, that the above application be and the same is hereby granted, subject to the following conditions:

1. That the authority granted shall apply only to that certain public utility property of Cuyamaca Water Company more particularly set forth and described in Exhibit "A" entitled "Description of Cuyamaca System" and in Exhibit "C" under the subtitle "List of properties" and attached to and made a part of the application herein.

2. That the authority herein granted shall apply only to such transfer as shall have been made on or before sixty (60) days from the date of this order, and a certified copy of the instrument of conveyance shall be filed with this Commission by said Ed. Fletcher within thirty (30) days from the date on which it is executed.

3. That within ten (10) days from the date on which Ed. Fletcher actually relinquishes control and possession of the properties herein authorized to be sold, he shall file with this Commission a certified statement indicating the date on which such control and possession was relinquished.

4. That the consideration given for the transfer of this property shall not be urged before this Commission or any other public body as a finding of value of the property for rate fixing or for any purpose other than the transfer herein authorized.

5. That the authority herein granted shall be contingent upon the La Mesa, Lemon Grove and Spring Valley Irrigation District filing with this Commission within thirty (30) days after the date of this order, a duly authorized resolution by its board of directors agreeing that said district will serve an adequate supply of water in the quantities to which they may be entitled, to all of the present consumers of the Cuyamaca Water Company outside the boundaries of said district, except such consumers as under the terms of said option as set out in Exhibit "C" attached to the application herein, may be served by said Cuyamaca Water Company.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15051.

GUARDIAN GASOLINE CORPORATION

vs.

SUNSET RAILWAY COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 2096.

WILSHIRE OIL COMPANY

vs.

SUNSET RAILWAY COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 2098.

Decided June 15, 1925.

RATES—STEAM RAILROAD—CASINGHEAD GASOLINE—REPARATION.—Rates charged by defendant carriers, Fellows to Los Angeles, and Pentland to Los Angeles found unreasonable. Reparations ordered.

F. W. Turcotte and *B. H. Carmichael*, for Complainants.

E. W. Camp and *B. Levy*, for Defendant.

SQUIRES, Commissioner.

OPINION.

These cases were consolidated and heard at the same time on one record, and will be disposed of in one report. A public hearing was had at Los Angeles on April 24, 1925.

Complainants are corporations engaged in the sale and distribution of petroleum and petroleum products, with offices and places of business in Los Angeles.

The complaint in Case No. 2096, filed February 4, 1925, alleges that the rate of 48 cents per 100 pounds, assessed by defendants for the transportation of four carloads of casinghead gasoline, moving from April 24, 1924, to May 12, 1924, both dates inclusive, from Pentland to Los Angeles, was excessive, unjust and unreasonable, in violation of section 13 of the Public Utilities Act, and discriminatory and prejudicial to complainant, and in violation of section 19 of the act, to the extent that it exceeded 41½ cents per 100 pounds.

In Case No. 2098, filed February 18, 1925, it is alleged that the rate of 60½ cents per 100 pounds assessed by defendants for the transportation of eleven carloads of casinghead gasoline, moving from July 20, 1922, to September 18, 1922, both dates inclusive, from Fellows to Los Angeles, was unjust and unreasonable, in violation of section 13 of the Public Utilities Act, and unduly prejudicial to complainant, and unduly preferential as to complainants' competitors at Taft and Kerto to the extent that it exceeded 41½ cents per 100 pounds. A list of the shipments involved having been registered on August 5, 1924, the statute of limitation was tolled by the Commission's Informal Docket, file I. C. 30975.

In support of their allegations in both of these proceedings, complainants rely mainly upon our conclusions in *Richfield Oil Company vs. Sunset Railway Company et al.* (24 C. R. C. 729). In that case we found the rates assessed for the transportation of petroleum and petroleum products, including gasoline and liquid petroleum gas, from Kerto and Taft to Los Angeles, unjust and unreasonable to the extent that they exceeded 41½ cents per 100 pounds, and awarded reparations on all shipments moving subsequent to July 1, 1922. Authority was granted the Sunset Railway Company and The Atchison, Topeka and Santa Fe Railway Company to publish the 41½-cent rate via their

circuitous route through Barstow, terminal in application. This route involves an excess haul as compared with the short line mileage via the Southern Pacific of 113 miles.

The tariff rate applicable from Pentland to Los Angeles referred to in Case No. 2096, during the period in which the four shipments involved moved, was 48 cents per 100 pounds. Defendants applied and collected that rate upon three of the cars, but on the fourth, moving May 9, 1924, they assessed a rate of 50 cents. This last-named rate was applied and collected in error and resulted in a straight overcharge of 2 cents per 100 pounds. Pentland is 2.4 miles south of Kerto and directly intermediate between that point and Los Angeles. Hence it is plain that the rate from Pentland to Los Angeles via the short line haul, being in the same oil-producing territory and involving a shorter haul than from Kerto and Taft, could not lawfully be on a higher basis to the terminal point where The Atchison, Topeka and Santa Fe Railway Company meets the rates of its short haul competitor. (Public Utilities Act, section 24.) Complying with the decision of the Commission in Richfield Oil Company (*supra*) defendants published, effective May 15, 1924, the prescribed rate of $41\frac{1}{2}$ cents from Pentland to Los Angeles, nonintermediate in application.

From the record made in Case No. 2096, therefore, I conclude and find that reparation should be paid on the Pentland shipments, the same as was paid on shipments from Kerto and Taft, the more distant points; and an order should be entered accordingly.

From Fellows to Los Angeles (Case No. 2098) defendants assessed and collected the published rate of $60\frac{1}{2}$ cents per 100 pounds, as shown in Pacific Freight Tariff Bureau Tariff No. 167, C. R. C. 263. The tariff rate today is $48\frac{1}{2}$ cents, made up of the $41\frac{1}{2}$ cents from Taft to Los Angeles, established in the Richfield oil case (*supra*), plus the local mileage rate of 7 cents, Fellows to Taft. This method of making through rates for heavy tonnage commodities moving in regular volume is not just and reasonable and has been expressly condemned. (*Associated Jobbers of Los Angeles vs. Southern Pacific*, 2 C. R. C. 659.)

Prior to May 15, 1924, the rate differential applying to petroleum products as between Kerto-Taft and Fellows to Los Angeles was 2 cents, and this differential prevails to many California and interstate destinations.

Defendants point out that the distance via the line of The Atchison, Topeka and Santa Fe Railway from Bakersfield to Los Angeles is in excess of that via the Southern Pacific Company by 113 miles; that the rates from Kerto and Taft to Los Angeles found reasonable by the Commission in the Richfield oil case (*supra*), were measured by the short line route of the Southern Pacific Company and that the Commission, when granting authority to defendants, the Sunset Railway and

The Atchison, Topeka and Santa Fe Railway, to publish the rates, terminal in application only, considered rates via the long route less than reasonable. This position can not be sustained. Where a short route is available for movement of traffic the reasonableness of the rate, so far as the distance factor is concerned, must be determined by that route. To permit higher rates to be charged in this case via the long line would give rise to complaints for misrouting and would produce discrimination. (I. C. C. Conference, Ruling 214-D.)

When defendants reduced the rate from Pentland to Los Angeles to the basis of the rate found reasonable by the Commission from Kerto and Taft to Los Angeles via the short line, they conceded that under the existing circumstances and conditions, the rate was not less than reasonable. Circuitous lines participating in traffic and electing to meet the rates of their short line competitors can not be heard to claim consideration on account of their longer haul.

Having carefully considered all the facts of record in Case No. 2098, I am of the opinion and so find that the rates assessed for the transportation of casinghead gasoline between August 5, 1922, to September 18, 1922, inclusive, from Fellows to Los Angeles, were unjust, unreasonable and unduly prejudicial and preferential to the extent that they exceeded a rate of 43½ cents; that complainant paid and bore the charges on the shipments in question and that it has been damaged to the amount of the difference between the charges paid and those herein found reasonable, and are entitled to reparation with interest.

The complainants in both these cases should submit statements of the shipments to defendants for check. If it is not possible for the parties to reach an agreement as to the amount of reparation due, the matter may be referred again to the Commission for further consideration and the entry of a supplemental order, if such is found to be necessary.

I recommend the following form of order:

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the interested parties, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Sunset Railway Company and The Atchison, Topeka and Santa Fe Railway Company, according as they participate in the transportation, be and they are hereby notified and required to desist on or before July 15, 1925, and thereafter to abstain from publishing, maintaining and applying rates not in accordance with the opinion which precedes this order.

It is hereby further ordered, that defendants, Sunset Railway Company and The Atchison, Topeka and Santa Fe Railway Company, according as they participate in the transportation, be and they are hereby notified and required to establish on or before July 15, 1925, upon notice to this Commission and to the general public by not less than fifteen (15) days' filing and posting in the manner prescribed in section 14 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of casinghead gasoline, in carloads, the rates prescribed in the opinion which precedes this order.

It is hereby further ordered, that defendants, Sunset Railway Company and The Atchison, Topeka and Santa Fe Railway Company, according as they participated in the transportation, refund, with interest, to complainants, Guardian Gasoline Corporation and Wilshire Oil Company, in so far as their interests may appear, all charges collected in excess of the rates herein found reasonable for the transportation of casinghead gasoline shipped from and to the points involved in this proceeding.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15052.

LASSEN LUMBER AND BOX COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2060.

RED RIVER LUMBER COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2077.

Decided June 15, 1925.

RATES—STEAM RAILROAD—LUMBER.—Rates from Susanville to Lasco and Facht and from Westwood to Susanville, Leavitt and Litchfield subsequent to July 1, 1922, held unreasonable. Reparations ordered.

A. Larsson, for Complainants.

F. W. Mielke, C. N. Bell, and *L. B. Young*, for Defendant.

BY THE COMMISSION.

OPINION.

These cases being related were, by agreement, consolidated and heard at the same time and will be disposed of in one report.

The complainants, Lassen Lumber and Box Company (Case No. 2060) and Red River Lumber Company (Case No. 2077), are corporations engaged in the manufacture and sale of lumber and its products.

In complaint No. 2060, filed October 30, 1924, it is alleged that the rates assessed for the transportation of lumber and lumber products during the years 1922 and 1923 from Susanville to Facht, Juniper, Peg Leg, Lasco and New Campsite, were unjust, unreasonable, discriminatory and in violation of sections 13 and 19 of the Public Utilities Act.

The complaint in Case No. 2077, filed December 4, 1924, and amended at the hearing, alleges that the rate assessed for the transportation of lumber and lumber products moved during the years 1922, 1923, and 1924 from Westwood to Susanville, Leavitt, Litchfield and intermediate points, was unjust, unreasonable, discriminatory and in violation of sections 13 and 19 of the Public Utilities Act.

We are requested to prescribe reasonable rates for the future and to award reparation.

A public hearing was held before Examiner Geary February 27, 1925, and the cases having been duly submitted are now ready for an opinion and order.

Rates will be stated in cents per 100 pounds.

The points involved in this proceeding are located on the Fernley branch of defendant's Salt Lake Division, extending from Fernley to Westwood, a distance of 135 miles. The distance from Susanville to Lasco is 20 miles and to Facht 25 miles. From Westwood the distance to Facht is 5 miles; to Susanville 29 miles; to Leavitt 36 miles and to Litchfield 44 miles. The station Lasco has from time to time been known as Juniper, Peg Leg and New Campsite and as the official name is now Lasco, reference will severally be made to the latter point only.

Prior to July 1, 1922, complainants forwarded six carloads of lumber from Susanville to Facht. The balance of the shipments moved subsequent to that date from Susanville to Lasco and Facht (Case No. 2060). From Westwood to Susanville, Leavitt and Litchfield, all shipments moved subsequent to July 1, 1922 (Case No. 2077). The record does not disclose whether the complainants made shipments from Westwood to points intermediate to Litchfield other than to Susanville and Leavitt. The applicable rate from Susanville to Facht prior to July 1, 1922, was the Class B rate of $17\frac{1}{2}$ cents. Subsequent to that date the lawful rate from Susanville to Facht and Lasco was the Class B rate of 16 cents, and from Westwood to Susanville, Leavitt and Litchfield a commodity rate of 14 cents. These rates were subject to a carload minimum weight of 30,000 pounds. An examination of defendant's Tariff C. R. C. No. 2848, and prior issues, indicates that during the period shipments moved from Westwood to Susanville, Leavitt and

Litchfield, there were concurrently in effect in the intermediate territory, on lumber and its products, minimum carload weight 30,000 pounds, rates of 7 cents and 11½ cents from Westwood to Facht, 5 miles, and to Westwood Junction, 11 miles, respectively. Defendant also maintains in its Tariff C. R. C. No. 2848, rates on rough lumber of 7 cents from Susanville to Facht, 25 miles, minimum carload weight 80,000 pounds, except when loaded to full capacity, when actual weight would apply, and rate of 6 cents from Westwood to Susanville, 29 miles, minimum weight 80,000 pounds, except when loaded to full capacity, actual weight, but not less than 60,000 pounds. The 7-cent rate from Susanville to Facht, 25 miles, was established November 7, 1922, and the 6-cent rate from Westwood to Susanville, 29 miles, became effective May 20, 1923.

Complainants compare the rates assailed with rates maintained by defendant in the Weed and Klamath Falls districts and in the territory contiguous to Truckee, Boca and Colfax; also in the territory adjacent to Blinzig, Merlin and Keddie on the Western Pacific Railroad.

Complainants lay stress on the rate of 14 cents contemporaneously in effect in defendant's C. R. C. No. 2848 from Westwood to Sacramento, a distance of 323 miles, as compared with rates assessed by defendant.

In Case No. 1951, *Los Angeles Lumber Products Company vs. Southern Pacific Company*, the Commission said, in reviewing the lumber rates in northern California:

These lumber rates were established in the first instance and have been changed from time to time over this period of thirty years to meet the varying conditions created by reason of the grouped and contiguous location of the producing mills, competition of the carriers by water and the contest between defendants, Southern Pacific Company and Western Pacific, for the lumber tonnage to California consuming points, all of these elements being strong factors in the making of the rates. * * * The Westwood-Sacramento rate of 10 cents in 1913 (now 14 cents) blankets from Newcastle, a point 31 miles east of Sacramento, or for 292 miles. * * * Much of complainant's testimony was grounded on a proposed mileage scale of rates measured, in part, by the adjustment now in effect from Westwood to Sacramento, 323 miles, *but apparently without sufficient regard for the blanketed area, of which such rate is only a part, and of the circumstances and conditions under which it was established.* (Italics ours.)

Manifestly the conditions which measure the volume of the 14-cent rate from Westwood to Sacramento have not been in the past, nor are they now, applicable to the assailed rates.

Defendant alleges that the lumber rates shown in complainant's exhibits are on an unusually low basis, were put into effect some years ago to assist in the development of the lumber industry, and that this basis was predicated on the heavy volume of traffic and the assumption that defendants would receive a subsequent haul.

Defendant also maintains that the cost of operations for the branch lines of its Salt Lake Division is 235 per cent greater than the cost of

operation on the main line of the same division. No segregation was made for the Fernley branch alone. They also point out that the territory between Susanville and Westwood is undulating and for every mile of track there is .50 of a mile of curve. From the testimony it was shown that from Westwood to Westwood Junction, a distance of 11.5 miles, the haul is generally on an upgrade of one per cent or over, with a maximum of 2.29 per cent; from Susanville to Westwood Junction a distance of 18 miles, the maximum upgrade is 1.73. Thus, on eastbound traffic the grades mainly favor the haul, while on westbound traffic the opposite is true. The testimony indicates no helper service is now required on either eastbound or westbound traffic.

Exhibits were presented by defendant comparing the applicable rates with commodity rates on lumber and other commodities, such as beans, peas, canned goods, machinery, etc., between selected California points for comparable distances. Defendant's exhibits of the commodities other than lumber are of little probative value, as no attempt was made to show what relationship such commodities bear to lumber.

Upon consideration of all the facts of record, we are of the opinion and find that the rates on lumber and its products from Susanville to Lasco and Facht, and from Westwood to Susanville, Leavitt and Litchfield, were, subsequent to July 1, 1922, and in the future will be, unreasonable to the extent that they have exceeded, or may exceed, the following rates, in cents per 100 pounds, minimum carload weight 30,000 pounds:

<i>From</i>	<i>To</i>	<i>Rate</i>
Susanville.....	Lasco	\$0 07
Susanville.....	Facht	08
Westwood.....	Susanville	09
Westwood.....	Leavitt	11
Westwood.....	Litchfield	13

Upon the present record we do not find that the rates assailed were discriminatory, or that the rates assessed for the transportation of complainants' shipments moving from Susanville to Facht prior to July 1, 1922, were unjust, unreasonable, discriminatory or in violation of the provisions of the Public Utilities Act.

We further find that complainants paid and bore the charges on certain shipments moving subsequent to July 1, 1922; that they have been damaged to the amount of the difference between the charges paid and those herein found reasonable and are entitled to reparation, with interest, on such shipments coming within the purview of section 71 (b) of the Public Utilities Act. The statute of limitation was stayed against these claims by informal actions, in Case No. 2060, our file I. C. 30148, dated May 1, 1924, and in Case No. 2077, our file I. C. 30702, dated June 30, 1924, and I. C. 31702, August 19, 1924. The complainants should submit statements of the shipments to defendant for

check. Should it not be possible to reach an agreement as to the amount of reparation due, the matter may be referred to this Commission for further attention and the entry of a supplemental order, should such be necessary. Details of shipments made subsequent to the filing of the complaint and to the hearing herein may be included in the reparation statement, if accompanied by appropriate proof, in the form of an affidavit, that the shipments were made and the freight charges thereon were paid and borne by the complainants.

ORDER.

These cases being at issue upon complaint on file, full investigation of the matters and things having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Southern Pacific Company, be and it is hereby notified and required to desist on or before July 30, 1925, and thereafter to abstain from publishing, maintaining and applying rates not in accordance with the opinion which precedes this order.

It is hereby further ordered, that defendant, Southern Pacific Company, be and it is hereby notified and required to establish on or before July 30, 1925, upon notice to this Commission and to the general public, by not less than fifteen (15) days' filing and posting in the manner prescribed in section 14 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of lumber, in carloads, the rates prescribed in the opinion which precedes this order.

It is hereby further ordered, that defendant, Southern Pacific Company, refund with interest, to complainants, Lassen Lumber and Box Company and Red River Lumber Company, according as their interests may appear, all charges collected in excess of the rates herein found reasonable for the transportation of lumber and its products moving subsequent to July 1, 1922, from and to the points involved in this proceeding, provided this reparation award shall not apply on shipments not within the purview of section 71 (b) of the Public Utilities Act.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15053.

SPERRY FLOUR COMPANY

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 2115.

Decided June 15, 1925.

RATES—STEAM RAILROAD—WHEAT PRODUCTS—MILLED IN TRANSIT—REPARATION AWARDED.—Defendant authorized to refund to complainant all charges in excess of $74\frac{1}{2}$ cents per 100 pounds on flour and articles taking same rate, Stockton to Blythe; and $74\frac{1}{2}$ cents per 100 pounds, plus out-of-line haul charge, from Riverbank to Blythe, milled in transit at Stockton.

BY THE COMMISSION.

OPINION.

The Sperry Flour Company, a corporation, with offices and principal place of business at San Francisco, California, filed complaint April 6, 1925, alleging that the rates assessed and collected for the transportation of wheat from Riverbank, California, milled in transit into flour at Stockton and shipped to Blythe, California, and the rate on flour and articles taking the same rate, from Stockton to Blythe, were unjust, unreasonable and in violation of section 13 of the Public Utilities Act to the extent they exceeded $74\frac{1}{2}$ cents per 100 pounds from Stockton to Blythe, plus the applicable out-of-line haul charge, Riverbank to Blythe.

Reparation only is sought and rates will be stated in cents per 100 pounds.

This shipment moved November 6, 1923, and consisted of 37,988 pounds of transit commodities originating at Riverbank, milled in transit at Stockton, and 80001 pounds of nontransit commodities originating at Stockton. A rate of $\$1.02\frac{1}{2}$ was assessed and collected on the nontransit commodities, and $\$1.02\frac{1}{2}$ cents, plus out-of-line haul charge, for milling in transit at Stockton on the transit portion. The out-of-line haul charge or milling in transit arrangements are not involved.

The Commission, under its Informal Reparation Docket No. 31958, authorized the defendant herein to refund to Sperry Flour Company various sums of shipments to Blythe, California, which were milled in transit at Stockton, but was unable to authorize refund in the instant case for the reason the rate to the basis of which reparation is sought was not published within six months subsequent to the date the shipments moved.

Effective June 30, 1924, defendant established a rate of $74\frac{1}{2}$ cents from Stockton to Blythe, and $74\frac{1}{2}$ cents, plus out-of-line haul charge on traffic originating at Riverbank, milled in transit at Stockton. These rates were as shown in Supplement 9 to The Atchison, Topeka and Santa Fe Tariff 11988-D, C. R. C. 506, and The Atchison, Topeka and Santa Fe Circular 2297, C. R. C. 412.

Defendant by formal answer duly filed, admits the allegations of the complainant, and under the circumstances a formal hearing will not be necessary.

We find the rates assessed on shipments as described in the complaint were unreasonable to the extent they exceeded rate of $74\frac{1}{2}$ cents from Stockton to Blythe on the nontransit commodities, and $74\frac{1}{2}$ cents, plus

the applicable out-of-line haul charge on transit commodities originating at Riverbank, milled in transit at Stockton, destined Blythe.

We further find that complainant made the shipment as described and paid and bore the charges thereon; that complainant has been damaged to the amount of the difference between the charges paid and those that would have accrued at the rates herein found reasonable, and is entitled to reparation. The complainant should submit statement of shipment to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and conclusions contained in the opinion which precedes this order;

It is hereby ordered, that the defendant, The Atchison, Topeka and Santa Fe Railway Company, be and it is hereby authorized and directed to refund to complainant, Sperry Flour Company, all charges it may have collected in excess of $74\frac{1}{2}$ cents per 100 pounds on flour and articles taking the same rate, as shown in The Atchison, Topeka and Santa Fe Tariff No. 11988-D, C. R. C. 506, from Stockton to Blythe, and $74\frac{1}{2}$ cents per 100 pounds, plus the applicable out-of-line haul charge on traffic moving from Riverbank, California, to Blythe, California, milled in transit at Stockton, involved in this proceeding.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15054.

IN THE MATTER OF THE APPLICATION OF E. V. RIDEOUT COMPANY
TO INCREASE FREIGHT RATES BETWEEN SAN FRANCISCO AND
OAKLAND ON THE ONE HAND, AND MARE ISLAND AND THE
INTERMEDIATE POINTS ON THE OTHER.

Application No. 11082.

Decided June 15, 1925.

RATES—CARRIER BY WATER—MISCELLANEOUS FREIGHT.—Reasonable rates fixed.
Gwyn H. Baker, for Applicant.

SQUIRES, Commissioner.

OPINION.

This application was filed May 9, 1925, by E. V. Rideout, owner, doing business under the fictitious name of E. V. Rideout Company, for an order under section 63 of the Public Utilities Act for authority

to increase certain freight rates on his boat line between San Francisco Bay points and the United States Navy Yard at Mare Island.

Applicant is operating vessels on the inland waters of the State of California, as a common carrier, by virtue of authority granted November 28, 1924, in Application No. 10425. For a period of approximately ten years prior to that date vessels were operated between San Francisco and Mare Island without a certificate, upon the theory that because practically all of the tonnage handled was the property of the federal government and hauled under contract, no certificate was necessary. This was contrary to the provisions of the Public Utilities Act and the mistake was corrected by the issuance of a certificate of public convenience and necessity as above stated.

Applicant's readjustments in the proposed rates vary, but the principal change is an increase from \$2 to \$2.50 per ton for the movement of miscellaneous freight. The rate is that agreed to in a contract entered into between applicant and the United States government made to become effective July 1, 1925. Practically all of the tonnage moving to Mare Island is consigned to the federal government, approximately 80 per cent being f. o. b. Mare Island, the remainder, while consigned to the government, is not consigned at a delivery price and, therefore, the charges are paid by the shipper. However, the government in the final adjustment, according to the evidence, in every instance bears the freight charges and is the only party in interest.

Applicant's contract for the year 1923-24, terminating July 1, 1924, was at a rate of \$2.50 per ton. Effective July 1, 1924, the contract rate was reduced to \$2 per ton. For the year ending December 31, 1924, during six months of which period the \$2 rate was in effect, applicant earned net only \$809.35; for the period July 1, 1924, to March 31, 1925, nine months at the \$2 rate, the net revenue was \$1,716.46, but the expenses included only minor repairs amounting to \$3,573.86; for the corresponding period of the previous year the repair costs amounted to \$11,728.09.

Applicant's witnesses testified that in order to place the boats in proper condition to complete operations for the year 1925, major repairs costing approximately \$7,000 must be met. This will create a definite loss under the present rates.

The book value of the floating equipment devoted to the federal service between San Francisco and Mare Island is given in applicant's annual report as \$78,397.49. This equipment consists of three tugs, four barges and some minor boat and dock equipment. A witness testified that the replacement value of the operating property today would be \$125,000.

The rates to be published are those agreed to in a contract with representatives of the federal government, after their inspection and study,

and it appears from the exhibits and testimony that the increases are necessary in order to continue the service.

Upon consideration of all the facts of record, I am of the opinion and so find that the present freight rates contained in the tariff of the applicant are unjust, unreasonable and insufficient and that just and reasonable rates are those set forth in Exhibit A, attached to and made a part of the application.

The application should be granted.

ORDER.

It is hereby ordered, that E. V. Rideout, operating under the fictitious name of E. V. Rideout Company, be and he is hereby authorized to establish within twenty (20) days from the date hereof the freight rates applying between San Francisco Bay points and Mare Island, as set forth in Exhibit A, attached to and made a part of the application.

It is hereby further ordered, that the applicant, E. V. Rideout, operating under the fictitious name of E. V. Rideout Company, publish the rates in proper tariffs in the manner prescribed in section 14 (a) of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15055.

IN THE MATTER OF THE APPLICATION OF KEY SYSTEM TRANSIT COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUE AND SALE OF FIVE HUNDRED THOUSAND DOLLARS OF SERIES "B" BONDS.

Application No. 10937.

Decided June 15, 1925.

SECURITY ISSUES—ELECTRIC RAILWAY—BONDS.—Key System Transit Company authorized to issue and sell \$500,000 of Series "B" gold bonds.

Dunne, Brobeck, Phleger and Harrison, by *H. H. Phleger*, for Applicant.

DECOTO, *Commissioner*.

OPINION.

The Railroad Commission is asked to make an order authorizing Key System Transit Company to issue and sell at par \$500,000 of its first mortgage 6 per cent gold bonds, Series "B," to be dated January 1, 1925, and payable July 1, 1938, and use the proceeds to pay bonds of East Oakland Railway Company, Oakland and Haywards Railway Company and acquire properties; and authorizing East Oakland Rail-

way Company and Oakland and Haywards Railway Company to sell their properties to the Key System Transit Company.

By Decision No. 12931, dated December 14, 1923, in Application No. 9367, the Railroad Commission authorized East Oakland Railway Company to issue not exceeding \$10,000 of stock and \$229,000 of first mortgage 15-year 6 per cent bonds and also authorized Oakland and Haywards Railway Company to issue \$10,000 of stock and \$236,000 of first mortgage 15-year 6 per cent bonds. That decision also authorized the Key System Transit Company to acquire the stock of the East Oakland Railway Company and Oakland and Haywards Railway Company, and prohibits such company from disposing of the stock of the two companies without the consent of the Commission.

By Decision No. 13214, dated February 28, 1924, in Application No. 9367, the Commission authorized East Oakland Railway Company and Oakland and Haywards Railway Company to lease their properties to the Key System Transit Company. Under the terms of the lease between the two companies and Key System Transit Company, the Key System Transit Company has the irrevocable option to purchase the properties of the two companies on or before July 1, 1938, through the payment of the bonded and other debt of the two companies.

It is of record that the East Oakland Railway Company now has outstanding \$229,000 of first mortgage 6 per cent bonds and the Oakland and Haywards Railway Company has outstanding \$236,000 of first mortgage 6 per cent bonds. The testimony shows that if the Key System Transit Company is permitted to issue the \$500,000 of bonds applied for in this application, that \$465,000 of such bonds will be used to pay or refund the \$465,000 of bonds of the East Oakland and Oakland and Haywards Railway Company. The remainder of the proceeds obtained from the sale of the \$500,000 of bonds the Key System Transit Company asks permission to use to reimburse its treasury to finance the following expenditures:

VPO No.	Location and description	Amount
6714	Lake Shore avenue—replace trolley wire Lake Shore avenue to end, except inbound track, Prince to Walla Vista avenue----	\$851 30
6801	Passenger cars Nos. 132, 133, 134—alterations to equip for one-man operation -----	1,896 60
6965	Spruce street, Euclid avenue, Oxford street, at Virginia street on Euclid avenue between Hearst avenue and Rose street—repairs and replacements account. Berkeley fire, September 17, 1923 -----	178 00
7008	Sacramento street, between Fifty-fifth and Russell streets—replaced relays and relay cases for auto flagman control-----	846 40
7063	Twenty-second street, Chestnut street yards—extended freight shed 34 feet on southerly end-----	1,940 30
7075	East Fourteenth street near Fifteenth avenue—overhauled 121 s.t. feet of tracks with replacement of ties, fastenings and pavement -----	1,164 00
7077	East Fourteenth street at Fourteenth avenue—overhauled 380 s.t. feet tracks -----	3,843 80

7223	Lake Shore avenue on Walla Vista avenue from Lakeshore to Carlston avenues—reconstruct track and laid second track—	\$23,035 35
7288	Santa Clara avenue line on San Jose avenue from Park to High and on High street to near Encinal avenue—rearrangement of poles and spans-----	1,248 97
		<hr/> \$25,005 37

I herewith submit the following form of order:

ORDER.

Key System Transit Company having applied to the Railroad Commission for permission to issue \$500,000 of Series "B" bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such bonds is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenditures or income, and that this application should be granted as herein provided;

It is hereby ordered, as follows:

1. East Oakland Railway Company be and it is hereby authorized to sell and transfer subject to its existing indebtedness or free and clear of all incumbrances and indebtedness all of its properties, more particularly described in applicant's Exhibit No. 4, to the Key System Transit Company.

2. Oakland and Haywards Railway Company be and it is hereby authorized to sell and transfer subject to its existing indebtedness or free and clear of all incumbrances and indebtedness all of its properties, more particularly described in applicant's Exhibit No. 5, to Key System Transit Company.

3. Key System Transit Company be and it is hereby authorized to issue and sell, for not less than par, \$500,000 of its first mortgage, Series "B" 6 per cent gold bonds, payable July 1, 1938, and to use \$465,000 of such bonds, or the proceeds thereof, to pay or refund \$229,000 of East Oakland Railway Company bonds and \$236,000 of Oakland and Haywards Railway Company bonds. The remainder of the proceeds, other than accrued interest, shall be used by the Key System Transit Company to finance, in part, the expenditures reported in applicant's Exhibit No. 3. The accrued interest may be used for general corporate purposes.

4. Key System Transit Company shall file with the Railroad Commission, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$35. Under the authority herein granted, no bonds may be issued subsequent to October 1, 1925.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15056.

IN THE MATTER OF THE APPLICATION OF PENINSULAR RAILWAY COMPANY, A CORPORATION, TO ABANDON CERTAIN OF ITS FRANCHISES AND TRACKS IN AND ABOUT THE CITY OF PALO ALTO, CALIFORNIA.

Application No. 9951.

Decided June 15, 1925.

SERVICE ABANDONMENT—ELECTRIC RAILWAY SERVICE.—Peninsular Railway Company authorized to abandon service and remove tracks in that portion of Palo Alto lying northerly of Southern Pacific Company's tracks.

William F. James, for Applicant.

Norman E. Malcolm, City Attorney, for City of Palo Alto.

W. Towers, Chairman, Transportation Committee, Ravenswood Chamber of Commerce, for Ravenswood School District, Protestant.

G. C. Kenyon, for Palo Alto Chamber of Commerce.

J. H. Stubbe, Secretary Ravenswood Chamber of Commerce, Protestant.

BY THE COMMISSION.

OPINION.

Peninsular Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing it to abandon its service and the franchises under which its street railway system in the city of Palo Alto is operated in so far as same is operated in the territory lying northerly of the Southern Pacific Company's tracks, and to remove therefrom its tracks and equipment.

Public hearings on this application were conducted at Palo Alto on May 13, 1924, and June 8, 1925, the matter was duly submitted and is now ready for decision.

Applicant alleges that the tracks herein proposed to be abandoned were established under the conditions as contained in the following described franchises, permits or agreements, all of said tracks being laid on streets lying northerly of the railroad tracks of the Southern Pacific Company:

I. Under Ordinance No. 94 of the town of Palo Alto granting to John F. Parkinson under date August 15, 1903, authority to construct a street railway line over University avenue between the Southern Pacific Company's tracks and the northerly city limits as the same existed in 1903, and also over Waverly street from University avenue to Embarcadero road.

II. Under an agreement under date January 8, 1912, between Peninsular Railway Company and Timothy Hopkins, authorizing the construction of a street railway line on University avenue from the corporate city limits as the same existed in 1903, to San Francisquito Creek.

III. Under the permit of the board of supervisors of the county of Santa Clara, dated August 17, 1912, and the order of the Railroad Commission as contained in its Decision No. 264 as decided October 7, 1912, authorizing the construction of a

of street railway across the Embarcadero road over the easterly extension of Waverly street.

IV. Under the agreement of Alfred Seale et al. and Peninsular Railway Company, dated August 9, 1912, covering the construction of a line of street railway for the extension of Waverly street easterly from Embarcadero road to a point 4700 feet more or less therefrom.

V. Under the permit of the board of trustees of the town of Palo Alto granting Peninsular Railway Company under date October 4, 1906, the right to construct street railway line over Emerson street from University avenue to Hawthorne street and over Hawthorne street from Emerson street to a point thereon 22 feet easterly from the northerly line of Alma street.

Applicant further alleges that the municipal authorities of the city of Palo Alto have made certain demands upon it for paving, repaving and track reconstruction, said demands being fully set forth in Palo Alto City Ordinance No. 246, dated November 13, 1922, a copy of said ordinance being attached to the application herein; that to comply with the provisions of said ordinance, if seven-inch girder rail construction were to be made, would require an expenditure estimated at \$271,869, and if nine-inch girder rail construction were to be made, would require an expenditure estimated at \$437,680.33; that applicant has no funds with which to finance the paving, repaving and reconstruction work called for by the provisions of Ordinance No. 246 of the city of Palo Alto; that applicant has no ability to borrow said sums required to comply with the provisions of the ordinance for the reason that it has no means of paying interest thereon except from its earnings, and that neither the Palo Alto street car system or the system of the applicant as a whole pays operating expenses there are no earnings.

Applicant further alleges that even if it were able to borrow money for the improvements required by Ordinance No. 246 of the city of Palo Alto that 8 per cent would be a reasonable interest rate therefor, and that interest at such rate would amount to \$21,749.52 per annum, an amount approximately the gross annual receipts of the Palo Alto city street car system; and that such interest payment if added to the present annual loss as reflected by applicant's annual statement for the year 1923 would increase the operating loss on the Palo Alto system from \$185.62 to \$24,935.14, thereby increasing applicant's operating loss on the entire system from \$8,538.48 to \$30,288, and would increase the net deficit for the 1923 operation of its entire system from \$377,737.77 to \$399,486.69; that applicant's total deficit as of December 31, 1923, was \$438,107.63; and that applicant since the commencement of its business has at no time been able to pay a dividend.

Applicant further alleges that not only should it not be required to further improve its Palo Alto city system but that neither public convenience or necessity requires the further operation of the system.

At the first hearing on this application, applicant presented exhibits showing in detail its revenue, expenses and financial condition for the

calendar years 1920 to 1923, inclusive, and for the three months ending March 31, 1924; also a statement of revenue accruing from the operation of its Palo Alto city lines for the years 1914 to 1923, inclusive also traffic checks showing the travel on the Palo Alto city lines. At the first hearing on this proceeding the showing of applicant was the only matter presented the representatives of the city of Palo Alto desiring time in which to examine and study the exhibits of applicant before cross-examination and affirmative protest, and an adjournment was taken to permit such study.

The city of Palo Alto, by its city attorney, under date June 3, 1925 filed herein its consent to the granting of the application provided that certain details relative to the manner in which tracks should be removed were complied with by applicant.

At the adjourned hearing held at Palo Alto on June 8, 1925, protest against the suspension of service and abandonment and removal of the tracks was entered by representatives of the community of Ravenswood an unincorporated section of San Mateo County, adjoining the easterly boundary of the city of Palo Alto. This community has heretofore received service from the University avenue line of applicant, patron walking to and from the end of the line at its terminus at San Francisco Creek, the boundary line between the city of Palo Alto and San Mateo County.

At the hearing it was stipulated by applicant that it would, if the application be granted, agree to comply fully with the terms and conditions desired by the municipal authorities of the city of Palo Alto as regards the manner in which the tracks would be removed, and also that the applicant would operate automobile bus service for a period of one year under certain agreed conditions in lieu of the street railway service heretofore operated. This stipulation disposes of the protest of the city of Palo Alto and will also remove the protest of the community at Ravenswood inasmuch as substantially the same service will hereafter be available to that community as formerly was enjoyed by them from the facilities afforded by the street railway operation.

After full consideration of all the evidence and exhibits herein, we are of the opinion and hereby find as a fact that the continued operation and maintenance of the street car system of the applicant in the city of Palo Alto and in the territory lying northerly of the Southern Pacific Company's tracks is not justified by the public convenience and necessity; that the substituted automobile bus service as agreed to between the applicant and the city of Palo Alto will furnish reasonable and adequate service; that the stipulation as to the detail of track removal as agreed to between applicant and the municipal officials of the city of Palo Alto and as to the substitution of automobile bus service

in lieu of the street car service heretofore operated should be approved and made a condition of the order herein; and that with such approval of the stipulation the application should be granted.

ORDER.

Public hearings having been held in the above entitled application, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that applicant, Peninsular Railway Company, a corporation, be and it hereby is authorized to suspend street car service, and to abandon and remove its street car tracks and appurtenances in the city of Palo Alto over all streets lying northerly of the Southern Pacific Company's tracks in said city; provided, however, that the removal of the tracks shall be done in a manner satisfactory to the city engineer of the city of Palo Alto and in accordance with the terms of a stipulation of record in the hearings hereon, the terms of said stipulation being as follows:

- I. *University avenue section from Marlowe street to creek.*
Applicant to take out ties and rails but not to do any paving.
- II. *University avenue from Cowper street to Marlowe street.*
Applicant to take out rails, resurface, macadamize and oil. Ties not to be removed.
- III. *University avenue from Southern Pacific Railroad to Cowper street.*
Applicant to remove ties, rails and pavement between tracks and for two feet on each side, but not to repave.
- IV. *Emerson street from University avenue to Lytton avenue.*
Applicant to take out rails but to leave ties, then to resurface pavement using new asphaltic materials where necessary.
- V. *Emerson street and Hawthorne avenue from Lytton avenue to the car barn.*
Applicant to remove ties and rails and remacadamize and oil.
- VI. *Waverly street from University avenue to Oregon avenue.*
Applicant to remove ties and rails and remacadamize and oil.
- VII. *From southwest line of Alma street to northeasterly line of Circle.*
Applicant to remove ties and rails and to resurface pavement using new asphaltic materials where necessary.

All trolley wires, poles and overhead material to be removed and repairs to be made to the streets around pole holes, anchors, etc., whenever necessary.

All macadamizing and repaving to be done by applicant in accordance with original specifications and to the satisfaction of the city engineer of the city of Palo Alto.

It is hereby further ordered, that applicant at the time of suspension of street railway service as herein authorized shall establish automobile bus service in accordance with the following terms and conditions, same having been originally proposed by applicant in its letter to the mayor and council of the city of Palo Alto under date of February 19, 1925, and forming the basis of a stipulation at the hearing on this proceeding:

Applicant to begin the operation of first-class auto busses on the same headway now made by street cars from the Southern Pacific Station or the Circle and

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over practically the same route as now used by street cars north or east of South Pacific Company's tracks. This service to commence as soon as street cars are continued. The rate of fare between Stanford University and the Southern Pacific Station, Palo Alto, on the street cars to be the same as at present, namely—six cents for one-way trip. Rate of fare on auto busses to be ten (10) cents to persons riding on the busses, passengers to be allowed transfers to the street cars from the street cars to the auto busses. If transferring from street cars to busses, fare to be ten (10) cents. The franchise for auto busses to be limited to expiration date of the present franchise referred to above (Ordinance 94 of the board of trustees of the town of Palo Alto) which would be August 15, 1953. However, provision to be made that, after one year's operation of auto busses, if the revenue derived from them is not sufficient to pay operating expenses, depreciation on busses, taxes, and 6 per cent on the investment required it would be left to application of discretion whether or not the bus service should be abandoned.

The books and records of applicant to be available for inspection, if desired, by the honorable council of the city of Palo Alto or to their duly accredited representative.

Applicant herein is hereby required to file with the Railroad Commission within ten (10) days from the date hereof its written acceptance of the terms and conditions by which the authority is hereby conferred upon it, the suspension of street car service, abandonment and removal of tracks and other appurtenances, and substitution of automobile service in lieu of the street car service heretofore rendered.

For all purposes, other than hereinabove stated, the effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15057.

IN THE MATTER OF THE APPLICATION OF CHAS. B. HOLBROOK AND V. H. SHULER FOR AN ORDER GRANTING PERMISSION TO ABANDON OPERATION OVER CERTAIN STREETS ON HOME GARDENS BUS LINE.

Application No. 10834.

Decided June 15, 1925.

AUTO STAGES—LOCAL SERVICE—ABANDONMENT.—Rerouting of Route No. 2 to eliminate certain portions thereof, authorized.

Chas. H. Holbrook and V. H. Shuler, in propria persona.

L. A. Martin, for Business Men's Improvement Association, of Home Gardens, Chairman of the Association, Protestant.

Mrs. W. F. Carroll, representing the Alexander Home Gardens Improvement Association of Tract 6000, Protestant.

BY THE COMMISSION.

OPINION.

Chas. H. Holbrook and V. H. Shuler, a copartnership, in accordance with their application amended at the hearing, have petitioned the Railroad Commission for authority to abandon a part and portion of certain operative rights acquired by them from Harry Pothoff and to transfer approved by this Commission in Decision No. 14438 on Ap

ation No. 10520 and to operate their bus service over a new route hereafter particularly described.

The operative rights involved in this proceeding embrace the following two routes:

Route 1. Commencing at the north city limits of the city of Lynwood in the county of Los Angeles, north on California street to Tweedy boulevard, west over weedy boulevard to Long Beach boulevard, and north over Long Beach boulevard to the end of the yellow car line operated by the Los Angeles Railway Company at Long Beach boulevard and Florence avenue, and returning by the same route.

Route 2. Commencing at the corner of Tweedy boulevard and California street, west on Tweedy boulevard to Cudahy boulevard, north on Cudahy boulevard to Southern avenue, west on Southern avenue to McNerny, south on McNerny to Duane way, and west on Duane way to California, north on California to a point just south of the south city limits of the city of Southgate, south on California, to Tweedy boulevard, and then over the same route to the end of the Los Angeles Railway yellow car line as set forth in Route 1 and return over the same route to the point of beginning.

The record shows that the proposed change of route involves only said Route No. 2 and the new route proposed to be served is as follows:

Commencing at the corner of Tweedy boulevard and California street, thence east on Tweedy boulevard to Cudahy boulevard, now known as and called Atlantic boulevard, thence returning west on Tweedy boulevard to Otis avenue, thence north on Otis avenue to Duane way, thence west on Duane way to California avenue, thence south on California avenue to the point of beginning.

L. A. Martin, representing the Business Men's Improvement Association of Home Gardens, and Mrs. W. F. Carroll, representing the Alexander Home Gardens Improvement Association, appeared as protestants at the hearing but during the course of this proceeding the record shows that the applicants amended their application so that it substantially meets the grounds of protest of the foregoing protestants.

The testimony shows that certain proposed subdivisions of residence property along and adjacent to Southern avenue and Atlantic avenue have never been made and that Southern avenue and some other proposed streets have never been opened to the public and as a result hereof this particular section remains sparsely settled and affords little or no patronage to the bus line of applicants. The only means of travel along Southern avenue is over a rough unimproved dirt road. It appears, however, that the territory adjacent to and along Tweedy boulevard between Otis street and Atlantic avenue is fairly well populated and that there are about 160 houses in this section immediately south of Tweedy boulevard and that many new homes are in course of construction. It appears that about 700 people live in this neighborhood whom this bus line may conveniently serve.

With respect to the desired elimination of that portion of applicants' route on California street north of Duane way, the record shows that the Southgate municipal bus line operates quite near this point and can accommodate the limited passenger travel in that neighborhood.

After a careful consideration of all the evidence, we are of the opinion and hereby find as a fact that the proposed new route herein-

above particularly described should be established and that the application as amended should be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and being now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity require the establishment of the service proposed by the applicants herein, over the proposed new Route No. 2, as follows:

Route 2. Commencing at the corner of Tweedy boulevard and California avenue, thence east on Tweedy boulevard to Cudahy boulevard, now known as Atlantic boulevard, thence returning west on Tweedy boulevard to Otis avenue, thence north on Otis avenue to Duane way, thence west on Duane way to California avenue, thence south on California avenue to the point of beginning.

Authority is hereby granted to said applicants to operate the authorized service over both of said routes as herein authorized in conjunction with each other, and as one transportation system; together with the privilege of operating extra or additional cars over the said routes during the "peak hours," or hours of heavy travel, provided, however, that no passengers shall be carried locally between Florida avenue and Santa Ana street.

It is hereby ordered, that a certificate of public convenience and necessity for the foregoing service be and the same is hereby granted in lieu of and not in addition to said applicants' existing operating rights, between Home Gardens and the end of the Los Angeles Railway Company's car line at Walnut street, subject to the following conditions:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, tariff of rates and time schedule identical with those now on file with the Railroad Commission in connection with said applicants' present authorized stage service line above described, within a period of not to exceed twenty (20) days from date hereof; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof, unless the time for commencement of operation hereunder is hereby extended by a supplemental order of this Commission.

2. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated, nor service thereunder continued unless the written consent of the Railroad Commission to such assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.

3. No vehicle may be operated by applicants herein unless the vehicle is owned by said applicants or is leased by them under

ract or agreement on a basis satisfactory to and approved by this Commission.

For all other purposes other than hereinabove specified, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15058.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES SYSTEM FOR AN ORDER GRANTING PERMISSION TO ADJUST ITS PASSENGER FARES ON THE LOS ANGELES-SANTA ANA DIVISION.

Application No. 10835.

Decided June 15, 1925.

RATES—AUTO STAGES.—Increase in fares on Los Angeles-Santa Ana division, and elimination of 60-ride commutation fares, authorized.

Varren E. Libby, for Applicant.

George W. Reid, for Anaheim Chamber of Commerce.

L. L. Oliger, for Santa Ana Chamber of Commerce.

BY THE COMMISSION.

OPINION.

Pickwick Stages System, a corporation, by Lewis A. Monroe, its agent, has petitioned this Commission under the provisions of chapter 213, Statutes 1917, for an order granting authority to readjust its passenger fares, one-way, round-trip, 10-ride family, 10-ride school and 30-ride family, between various points on its Los Angeles-Santa Ana Division, as set forth in Exhibit A, attached to and made a part of the application, and also to eliminate entirely the sale of 60-ride individual commutation fares now in effect at all points on this operating division.

A public hearing was held at Los Angeles, May 18, 1925, before Examiner Geary and the case having been submitted is now ready for an opinion and order.

The operating line of applicant's Los Angeles-Santa Ana Division extends from Los Angeles to Orange and Santa Ana, distances of 37 and 40 miles respectively, and in addition to the above three points named also serves Bandini, Rio Honda, Santa Fe Springs, Norwalk, La Mirada, Standard Oil Station, Buena Park, Fullerton, Anaheim, Substation, County Hospital and Orange Junction. This line was acquired March 15, 1924, from A. B. Watson, owner of the Crown Stage Lines, by authority of this Commission's Decision No. 13177, Application No. 8431, dated February 19, 1924.

Applicant alleges that its present fares do not produce sufficient revenue to provide for the actual operating expenses, depreciation and fixed charges; that the results flowing from the readjustments proposed

are estimated to enable it to operate without an out-of-pocket loss, will not be sufficient at this time to produce any return upon invested capital. The increases are between a limited number of points and, in most cases, for the one-way fare are 5 cents; round trips 5 to 10 cents; the 10-ride family and 10-ride school tickets vary from 1 to 50 cents, and only one change is made in the 30-ride family; that is, 50 cents between Los Angeles and La Mirada, where there are practically no sales. The total elimination of the 60-ride commutation fare will leave only the 30-ride family in effect. These 60-ride fares were inaugurated at the commencement of operations, many years ago, at the very low rate of less than one cent per mile, and are now being freely used, which fact, applicant's witness testified, is responsible for a great measure for the present financial condition of the line.

Exhibits show that during the period March 15 to December 31, 1924, the total revenues were \$185,275.01 and the total operating expenses, including depreciation, \$201,148.77, a net loss of \$15,873.76. The depreciation charge, included in operating expenses, was \$25,600.00. For the months of January, February and March, 1925, the total revenue was \$51,407.03 and the total expenses \$57,679.74, including depreciation of \$9,572.52, a net loss of \$6,272.71. The average loss for the entire period March 15, 1924, to March 31, 1925, was approximately \$1,770.90 per month. Depreciation is a proper and necessary expense to be considered in operating expenses. In this situation the applicant has charged depreciation into operating expenses, but same has not been earned in its entirety, therefore at the present time the service is being continued by the depreciation of the property, which practice must ultimately result in a discontinuance of operation when the equipment has worn out.

The total assets as of March 31, 1925 (Exhibit No. 6), are given as \$239,908.72. Of this amount \$231,703 is invested in plant and equipment. Upon this investment no return is included in the proposed fares. The statements of revenues, expenses, etc., have been checked by the Commission's auditing department and, with the exception of a few minor changes, have been found correct.

Since this applicant acquired the property from the Crown Street Railway and commenced operations March 15, 1924, the service has been improved by the addition of larger and more modern busses, eliminating double heading of schedules necessary by the predecessor company because of the small equipment it employed. This change, and others, have resulted in substantial reductions in the operating expenses, but are not sufficient to effect a profit. The heavy travel is to and from Los Angeles, the record showing that the volume is large in the morning to the north and very heavy in the afternoon in the opposite direction. This situation requires the dead-heading of equipment in both directions.

akes for expensive operation and the investment of additional capital, an unavoidable condition if the service required by the public is given.

As heretofore stated, applicant does not expect the proposed fares to produce sufficient revenue to more than meet the operating expenses, taxes and depreciation. In fact the president of the company testified that it must rely upon an increase in business to secure a return upon the investment.

Representatives of the chambers of commerce of Norwalk, Santa Ana and Anaheim were present at the hearing, and subsequent thereto submitted a report, the result of a check of the statements and books of the Pickwick System. That report stated there had been considerable decrease in travel between Santa Ana and Santa Fe Springs, due to the changed conditions in the oil fields, which resulted in a decrease of 31 per cent of the business since August, 1924. The representatives of the three chambers of commerce agreed that the applicant should be permitted to increase the fares, with the exception of Norwalk, who was of the opinion that the 60-ride books should not be discontinued. The final recommendation was that the fares be permitted to go into effect and that at the end of a 90-day period the applicant endeavor to reestablish the 60-ride commutation fares upon a proper and equitable basis.

Upon consideration of all the facts of record we find that the present fares of applicant for the transportation of passengers on its Los Angeles-Santa Ana Division are unjust, unreasonable and insufficient and that the just, reasonable and sufficient fares are those shown in exhibit A, attached to and made a part of the application. We also find that applicant is entitled to eliminate all 60-ride commutation fares. The Commission suggests that applicant give careful consideration and study to the suggestions of the chambers of commerce and endeavor to publish within ninety days a schedule of 60-ride commutation fares to meet the requirements of the commuting public.

The applicant will file with the Commission on or before the twentieth day of each month for a period of six (6) months a statement showing in detail the total revenue received under the rates authorized and what would have accrued under the rates now in effect; also the total operating expenses, depreciation and taxes and the net operating revenue. The revenue and expenses should be compiled in conformity with the Commission's order of January 1, 1922, uniform classification accounts.

The proceeding will be held open for a supplemental order should the actual results obtained through the new fares make such action necessary.

ORDER.

This application having been duly heard and submitted by parties, full investigation of the matters and things involved has been had and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that the Pickwick Stages System, a corporation, be and it is hereby authorized to establish within twenty (20) days from the date hereof the one-way, round-trip, 10-ride family, 10-ride school and 30-ride family fares between the various points on its Los Angeles-Santa Ana Division, as set forth in Exhibit A, attached to and made a part of the application.

It is hereby further ordered, that the Pickwick Stages System, a corporation, be and it is hereby authorized to eliminate all 60-ride combination fares applicable between points on its Los Angeles-Santa Ana Division.

It is hereby further ordered, that the Pickwick Stages System, a corporation, file with this Commission on or before the twentieth (20th) day of each month, for a period of six (6) months after the new fares become effective, a statement showing the number of passengers handled between all points on its Los Angeles-Santa Ana division, the earnings under the old and the new fares, and the revenue and expenses. The information as to the revenue and expenses to be compiled in conformity with the Commission's order effective January 1, 1922, under the new classification of accounts.

It is hereby further ordered, that this proceeding be held open until a supplemental order should the Commission deem further action necessary.

Dated at San Francisco, California, this fifteenth day of June, 1922.

DECISION No. 15059.

IN THE MATTER OF THE APPLICATION OF LAKE TAHOE RAILROAD AND TRANSPORTATION COMPANY, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO STAGE LINE FOR THE TRANSPORTATION OF PERSONS, FOR COMPETITION, BETWEEN TAHOE CITY AND POMINS, CALIFORNIA, THROUGH INTERMEDIATE POINTS.

Application No. 10931.

IN THE MATTER OF THE APPLICATION OF A. L. RICHARDSON, DOING BUSINESS UNDER THE FICTITIOUS NAME OF PIERCE ARTHUR STAGE, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AUTHORIZING THE CONSOLIDATION OF ALL OPERATING RIGHTS NOW OWNED BY HIM.

Application No. 10936.

IN THE MATTER OF THE APPLICATION OF A. L. RICHARDSON, DOING BUSINESS UNDER THE FICTITIOUS NAME OF PIERCE ARTHUR STAGE, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AUTHORIZING THE HANDLING OF PACKAGES ON A

CALIFORNIA RAILROAD COMMISSION DECISIONS.

MOBILE STAGES BETWEEN SACRAMENTO, TAHOE CITY AND INTERMEDIATE POINTS.

Application No. 10875.

THE MATTER OF THE APPLICATION OF CASSIDY AND WORD FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER SERVICE BETWEEN RENO, NEVADA, STATE LINE, TRUCKEE AND SACRAMENTO.

Application No. 10469.

Decided June 15, 1925.

CERTIFICATE—AUTO STAGES.—Certificate granted Lake Tahoe Railway and Transportation Company to operate auto stage service between Tahoe City and Pomins and intermediate points.
Certificate granted A. L. Richardson to consolidate routes as one unified system.
Application of S. C. Casidy and Frank Word denied.

Rochl. for Applicant in Application No. 10931, and Protestant in Applications No. 10936 and No. 10875.

H. Baker, for Applicants in Application No. 10936 and No. 10875, and Protestants in Application No. 10931 and Application No. 10469.

Kearney, for Applicant in Application No. 10469.

Crn. for American Railway Express Company, Protestant in Applications No. 10936 and No. 10875.

Gogarty, for Southern Pacific Company, Protestant in Applications No. 10936, No. 10875 and No. 10469.

Latta, for Eldorado Motor Transportation Company, Protestant in Application No. 10875.

THE COMMISSION.

OPINION.

Lake Tahoe Railway and Transportation Company, a corporation, applied to the Commission (Application No. 10931) for a certificate of public convenience and necessity authorizing the operation of an automobile stage line for the transportation of passengers between Tahoe City and Pomins, and intermediate points including Tahoe Pines, Inwood, McKinney's, Moana Villa and Tahoma, all of which are situated upon the shores of Lake Tahoe. Applicant alleges that it operates a steam railroad between Truckee and Tahoe City, where it conducts a hotel and summer resort known as Tahoe Tavern, and in connection with its railroad, operates a steamship line around Lake Tahoe. It is applicant's intention to coordinate the stage service with the mail service and that of Southern Pacific Company; more particularly applicant desires to provide connections with a fast daylight train from San Francisco to be operated by Southern Pacific Company, as well as to permit better connections for passengers traveling east of Truckee. Two round trips daily will be operated, the proposed time tables and fares being shown in exhibits attached to the application. The equipment to be devoted to this service will consist of two Cadillac passenger automobiles, with such other vehicles as the traffic may require. Applicant proposes to operate this service during the months

of June, July and August only, when the resorts along the route generally are open for business.

A. L. Richardson, doing business under the fictitious name of Pioneer Arrow Stage, has petitioned the Commission (Application No. 109) for a certificate of public convenience and necessity authorizing consolidation and unified operation of certain passenger operating rights, and permitting the transportation of merchandise on passenger stages throughout the system. The passenger routes sought to be consolidated are thus described:

(a) Between Sacramento and Tallac, Lakeside and Fallen Leaf and intermediate points via Placerville;

(b) Between Lakeside and Tahoe City and intermediate points, Bijou, Al Tahoe, Grove, Tallac, Emerald Bay, Meek's Bay, Pomona, Moana Villa, McKinney's and Homewood;

(c) Between Diamond Springs Cross Roads and Diamond Springs and intermediate points;

(d) Between Placerville and Camino and intermediate points.

It is alleged that the unified operation of these routes will eliminate transfers of passengers now necessary, and will result in more economical use of equipment. The privilege of carrying express is sought primarily to serve the needs of those requiring expedited service, such as emergency shipments of automobile parts and perishable food supplies. By a stipulation made during the hearing the application was amended so as to limit the weight of express shipments to thirty pounds excepting automobile parts as to which the maximum weight will be one hundred pounds.

The same applicant has also petitioned the Commission (Application No. 10875), for a certificate of public convenience and necessity authorizing the transportation of merchandise on its passenger stages on all of the following routes: (a) Between Sacramento and Tallac and Placerville; (b) between Lakeside and Homewood and intermediate points; and (c) between Diamond Springs Cross Roads and Diamond Springs and intermediate points. In part, this application seeks the same express privileges as those described in Application No. 109 and is based on substantially the same grounds. The stipulation limiting the weight of express shipments applies also to this application.

Cassidy and Word, a copartnership, consisting of S. C. Cassidy and Frank Word, have applied to the Commission (Application No. 104) for a certificate of public convenience and necessity authorizing operation of an automobile stage line for the transportation of passengers and baggage between the California-Nevada state line near Flinton, Truckee, Tahoe Tavern, McKinney's, Meek's Bay, Emerald Bay, Tallac, Al Tahoe, Bijou and the California-Nevada state line, in connection with a proposed interstate automobile stage service to be operated.

ated from Reno, Nevada, which will make a complete circuit of Lake Tahoe. The certificate sought relates only to operations within the State of California. Applicants allege that this service is required to meet the needs of transcontinental tourists desiring to visit Lake Tahoe, and will permit them to make the round trip in one day.

A public hearing was held before Examiner Austin at Sacramento on April 13, 1925, when the foregoing applications were consolidated for the purpose of receiving evidence and for decision; evidence was offered, the matters were duly submitted, and they are now ready for decision.

A. L. Richardson, doing business as Pierce-Arrow Stage, protested the granting of Application No. 10931; American Railway Express Company, Lake Tahoe Railway and Transportation Company, and Southern Pacific Company protested the granting of Applications Nos. 10936 and 10875; El Dorado Motor Transportation Company, Inc., protested the granting of Application No. 10875; and Southern Pacific Company and A. L. Richardson, doing business as Pierce-Arrow Stage, protested the granting of Application No. 10469.

With respect to the application of the Lake Tahoe Railway and Transportation Company, its general manager, Charles W. Nelson, testified that the stage service would constitute an extension of the present railroad line between Truckee and Tahoe Tavern, the stage serving points along the east shore of the lake as far as Pomins, distant eight miles from the Tavern. The Southern Pacific Company, he stated, intends to put on a fast through daylight, first-class train, leaving San Francisco early in the morning and arriving at Truckee at 5 p.m., reaching Tahoe Tavern via applicant's rail line at 6.05 p.m. Passengers desiring to visit lake resorts as far as Pomins will be enabled by his stage service to reach their destinations that night. Also the stage line will afford quick connections from these resorts for those desiring to go to Reno and eastern points. This service will be more expeditious than that now given by the boat line serving the lake resorts and now operated in connection with the railroad. A seasonal operation is contemplated during the months of June, July and August only when about 1000 people will be visiting these resorts. To perform this service applicant will use two 7-passenger Cadillac automobiles and such other equipment as the business may require. This witness testified that the Pierce-Arrow Stage line now operating from Sacramento via Placerville to Tahoe Tavern and serving the resorts along the west side of the lake, could not handle this traffic, inasmuch as its present and proposed schedule will not permit through passengers from San Francisco to reach their destinations in one day, it being necessary for them to stop over at the Tavern for one night.

It appears from the schedule proposed by the Pierce-Arrow line that its stages will leave Tahoe Tavern at 7 a.m., there being evening service; according to applicant's schedule its stages will leave the Tavern at 1 p.m. and 7 p.m., thus enabling through passengers to reach their destinations without any stop-over at the Tavern.

By Applications Nos. 10936 and 10875, A. L. Richardson, doing business as Pierce-Arrow Stage, seeks a consolidation of certain operative rights and also the privilege of carrying express.

The operative rights owned by applicant and sought to be consolidated are described as follows:

(1) Passenger service between Sacramento and Tallac, Lakeside, Fallen Leaf and intermediate points via Placerville, based on rights acquired prior to May 1, 1917, and defined by tariffs heretofore filed with the Commission.

(2) Passenger service between Lakeside, Tahoe City and intermediate points as follows: Bijou, Al Tahoe, Grove, Tallac, Emerald Lake, Meek's Bay, Pomins, Moana Villa, McKinney's and Homewood. A certificate for this route was granted to W. D. Alexander, doing business as Carson-Tahoe Transportation Company, by the Commission's Decision No. 11868, on Application No. 8649, and thereafter this operative right was transferred to applicant pursuant to this Commission's Decision No. 13885, on Application No. 10280.

(3) Passenger and baggage service between Diamond Springs, Roads and Diamond Springs and intermediate points, for which a certificate was granted to applicant by this Commission's Decision No. 14535, on Application No. 9534, which decision prohibited applicant from merging this route with his other lines, but permitted the publication of through and joint rates.

(4) Passenger and baggage service between Placerville and Carson and intermediate points for which a certificate was granted to John Dugan by this Commission's Decision No. 8782, on Application No. 6379, and the operative right was thereafter transferred to applicant pursuant to this Commission's Decision No. 14591, on Application No. 10832, the applicant being therein prohibited from merging or uniting this line with his other operative rights.

A representative of this applicant, Mrs. Cora Richardson, testified that during the summer season the Pierce-Arrow Stage line operates between Sacramento and Lake Tahoe via Placerville, serving 12 routes with a capacity of about 1200 people. At the height of the season as many as 80 passengers daily were handled from Sacramento, necessitating the operation of four or more stages each accommodating from 20 to 30 passengers. At Placerville the passengers are distributed and loaded into stages according to their respective destinations,

frequently being sufficient passengers for one resort or group of resorts to fill one stage, but because the line north of Tallac is a distinct operative right, passengers destined to those points can not be handled in a through stage, it being necessary to transfer them to another stage at Tallac although frequently there are more than sufficient passengers to fill one stage. This results in great inconvenience to and causes much complaint among the passengers. In addition, the delay resulting from the transfer at Tallac prevents passengers from reaching their destinations in time for dinner, thus causing much complaint among the resort owners who have urged applicant to render a more expeditious service. To accommodate traffic north of Tallac, applicant is obliged to maintain three stages at that point. By permitting a through service from Placerville this equipment will be released and can be used upon other parts of the system resulting in a considerable saving. Applicant does not propose to operate any different schedule than that shown in the application, but if necessary will perform a local service on the same schedule.

The testimony of this witness was corroborated by that of a resort proprietor at Moana Villa, accommodating from 100 to 125 people, who stated that a through stage service was preferable to the rail and boat line.

Regarding the Diamond Springs service, a representative of applicant testified that at Diamond Springs was situated a box factory of the California Door Company, employing from 75 to 80 men, most of whom live at Placerville, distant $5\frac{1}{2}$ miles from Diamond Springs. Most of these employees are compelled to use private automobiles as a means of transportation, since applicant's present stage service does not get them to their work in time. Many requests for the establishment of through service have been received. Applicant, if permitted, will install a through service from Placerville which will accommodate these employees and enable them to travel to and from their work.

As to the Camino line, this witness testified that although this line parallels applicant's present line from Placerville to Tallac, it is and must be operated as a separate and distinct unit, as required by the terms of the certificate granting this operative right. A considerable saving will be effected if applicant is permitted to link up this system with his other lines and merge it into the general system.

With respect to the proposed express service, it appears that until recently applicant carried express on passenger stages, believing that he had the right to do so because of operations conducted prior to May 1, 1917. When it was discovered that this right had not been reserved by tariffs properly filed with the Commission, applicant discontinued this service on advice of counsel, and subsequently filed his application. Mrs. Cora Richardson testified that applicant had

frequently been requested to transport small packages, principally emergency shipments of medicines and automobile parts, the packages averaging about ten pounds in weight and never exceeding one hundred pounds. There is ample space for express packages in the baggage racks of passenger cars. This service will be more expeditious than that afforded by the American Railway Express Company. Orders given on the day of shipment before the stage departs will be delivered during the same day; the American Railway Express delivery will not be made before the following day. Substantially the same remuneration was given by another employee of applicant, Miss Emma Brown, connected with the Placerville office, who testified to frequent calls for such service. She stated that at Placerville the American Railway Express Company afforded one service daily with no delivery, while by the stage service the express can be delivered at Placerville three times daily. Frequent calls were received for handling express, not only to Placerville, but to other mountain and resort points. Applicant also called five witnesses consisting of resort owners, merchants and garage dealers, who substantially corroborated the testimony of Mrs. Richardson and Miss Brown, stating that there was a necessity for the handling of small emergency packages, consisting principally of medicines, groceries, perishable supplies, and automobile parts necessary to repair cars which had broken down in the mountains.

As previously stated, applicant stipulated that he would carry express packages weighing over thirty pounds, excepting automobile parts, as to which the maximum weight was fixed at one hundred pounds per package. The American Railway Express Company withdrew its protest, respecting the handling of express at Camino, Placerville, House, Riverton, Whitehall, Kyburz, Strawberry, Phillips and Meadows. It was also stipulated by applicant that in handling this express service would not compete with the El Dorado Motor Transportation Corporation, Inc., which renders a freight service in this territory.

Coming now to Application No. 10469, it appears from the testimony of S. C. Cassidy that applicants Cassidy and Word propose to inaugurate a loop service from Reno around Lake Tahoe via Truckee, Tavern and Carson City, operating the line from May to October each year. Passengers will be granted a thirty-day stop over at the resorts. To handle the traffic two 18-passenger stages will be used. It is estimated that applicants will handle daily an average of 15 passengers from Reno upon the through trip, but this witness was unable to make any estimate of the anticipated local traffic other than at Truckee where he expects to pick up an average of five passengers daily. Within the State of California applicants propose to serve all local traffic between the state line and Truckee and to carry passengers from points in this territory to the lake resorts and other points in this state.

intend to perform no local service between points in this state and Truckee. In other words, no passengers will be picked up and charged between these points. Mr. Cassidy testified that the present ice from Reno around the lake by rail, boat and stage required frequent transfers and many delays which they proposed to obviate. There is now no morning rail service from the lake to Reno, he stated, under applicants' schedules, passengers can leave the lake resorts in the morning and arrive at Reno in the evening. Inquiries at Reno relative to a through service around the lake have been received from local business men and residents, and also from transcontinental tourists.

In addition, campers at Donner Lake have inquired concerning establishment of a stage line through Truckee enabling them to reach the Lake Tahoe resorts. However, passengers from Donner Lake patronizing applicants' line exclusively, be obliged to remain overnight at Reno, returning in the morning on applicants' stage to Truckee where they must change to another stage line running to Donner Lake. A general investigation was made by applicants as to the local service between the lake resorts.

Testifying in opposition to this application, Charles W. Nelson, general manager of the Lake Tahoe Railway and Transportation Company, said that trains left Truckee daily in the morning connecting with Reno. He also referred to the light ticket sales at Reno for Truckee points west granting stop-over privileges at the lake resorts, not over 300 persons a year stopping over at the lake en route to California. A very little traffic originated at Donner Lake for points on Lake Tahoe, he stated. Furthermore, most persons traveling from Reno to Lake Tahoe use private automobiles.

From an exhibit introduced by Southern Pacific Company it appears that under its new schedule there will be five trains daily from Truckee to Reno and four trains daily in the opposite direction.

Apparently there is a need for the stage service proposed by Lake Tahoe Railway and Transportation Company between Tahoe Tavern, Pomona and intermediate points, inasmuch as it will be a great convenience to passengers desiring to reach these resorts on the day of leaving San Francisco. This is now impossible under the existing public transportation service, passengers being required to stop over at Reno en route, a circumstance which will afford great inconvenience and additional expense to many persons making this trip. The evidence shows a need for the consolidation and unification of the various stage rights of the Pierce-Arrow Stage line, since by so doing, transfers and transfers of passengers will be obviated, the public will be better served, and applicant will be enabled to effect many economies in operation of his lines. In our judgment the evidence also shows a necessity for the transportation of express by the Pierce-Arrow Stage

line throughout the system. However, there appears to be no public necessity for the inauguration of the stage service proposed by Cassidy and Word. Insofar as their operations may be of an interstate character, no certificate from this Commission is necessary; and the local intrastate service now afforded by the existing rail, boat and stage line is adequate.

Upon full consideration of the evidence, we are of the opinion and hereby find as a fact that public convenience and necessity require the operation by Lake Tahoe Railway and Transportation Company, a corporation, of an automobile stage line for the transportation of passengers for compensation between Tahoe City and Pomona and intermediate points as follows: Tahoe Pines, Homewood, McKinney's, Meek and Villa and Tahoma.

Upon full consideration of the evidence, we are of the opinion and hereby find as a fact that public convenience and necessity require the consolidation and unification of the operative rights of A. L. Richardson, doing business under the fictitious name of Pierce-Arrow Stage, subject to the provisions of this opinion and order; and we further find as a fact that public convenience and necessity require the transportation by said A. L. Richardson, doing business under the fictitious name of Pierce-Arrow Stage, of express packages upon his passenger stages between all points on his lines or routes, provided that such express shipments shall not exceed 30 pounds in weight for each package, excepting shipments of automobile parts which shall not exceed 100 pounds in weight for each package.

Upon full consideration of the evidence, we are of the opinion and hereby find as a fact that public convenience and necessity do require the operation by Cassidy and Word, a copartnership consisting of S. C. Cassidy and Frank Word of an automobile stage line for the transportation of passengers and baggage between the California Nevada state line, Truckee, Tahoe Tavern, McKinney's, Meek and Emerald Bay, Tallac, Al Tahoe, Bijou, and the California state line or between any of said points.

An order will be entered accordingly.

ORDER.

A public hearing having been held in the above entitled application, the matters having been duly submitted, the Commission being fully advised and basing its order on the findings of fact which appear in the opinion preceding this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Lake Tahoe Railway and Transportation Company, a corporation, of an automobile stage line for the transportation of passengers for compensation

between Tahoe City and Pomins and intermediate points as follows: Tahoe Pines, Homewood, McKinney's, Moana Villa and Moana; and

it is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to said Lake Tahoe Railway Transportation Company, a corporation, subject to the conditions hereinafter set forth.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the consolidation and unification of the operative rights of A. L. Richardson, doing business under the fictitious name of Pierce-Arrow Stage, and the future operation thereof as one unified system, of through service for the transportation of passengers, baggage and express between all the termini and intermediate points served by and along its present several routes, the routes are hereby stated to be as follows:

Between Sacramento and Tallac, Lakeside and Fallen Leaf and intermediate points via Placerville.

Between Lakeside and Tahoe City and intermediate points as follows: Bijou, Al Tahoe, Grove, Tallac, Emerald Bay, Meek's Bay, Pomins, Moana Villa, McKinney's and Homewood, operated pursuant to authority granted by Decision No. 13885, dated August 5, 1924, in Application No. 10280.

Between Diamond Springs Cross Roads and Diamond Springs and intermediate points operated pursuant to authority granted by Decision No. 14535, dated February 5, 1925, in Application No. 9534.

Between Placerville and Camino and intermediate points, operated pursuant to authority granted by Decision No. 14591, dated February 24, 1925, in Application No. 10832.

Provided, that the right to transport express shipments, herein provided, shall be subject to the limitation that no single package shall exceed thirty (30) pounds in weight, excepting only shipments of automobile parts which shall not exceed one hundred (100) pounds in weight.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to A. L. Richardson, doing business under the fictitious name of Pierce-Arrow Stage, to consolidate the aforesaid operative rights and to render through service thereunder, to carry shipments of express as herein provided.

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by Cassidy and Word, a copartnership, consisting of S. C. Cassidy and Frank Word, of an automobile stage line for the transportation of passengers and baggage between the California-Nevada state line, Meek, Tahoe Tavern, McKinney's, Meek's Bay, Emerald Bay, Tallac,

Al Tahoe, Bijou, and the California state line, or between any of points.

It is hereby ordered, that the application of Cassidy and Word copartnership consisting of S. C. Cassidy and Frank Word, be and same is hereby denied.

The authority herein granted is subject to the following conditions:

1. Applicants shall respectively file their written acceptance of certificates herein granted within a period of not to exceed ten (10) days from date hereof; and shall file, in duplicate, tariff of rates, fares, rules and regulations, and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariffs of rates and fares, rules and regulations, and time schedules to be identical with those attached to the applications herein; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from the date hereof, unless the time for commencement of operation hereunder is hereafter extended by a supplemental order of this Commission.

2. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated, nor service thereunder continued unless the written consent of the Railroad Commission to such assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.

3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to and approved by the Commission.

For all other purposes, other than hereinabove specified, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15063.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES & TEM, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF CAPITAL STOCK IN THE SUM OF ONE HUNDRED FIFTY THOUSAND DOLLARS.

Application No. 11074.

Decided June 15, 1925.

SECURITIES—STOCK—TO ISSUE.—Application of Pickwick Stages, Northern Division Inc., to issue and sell \$150,000 of its common capital stock, to finance purchase of equipment, granted.

Warren E. Libby, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Pickwick Stages System, a corporation, and formerly known as Pickwick Stages, Northern Division, Inc., asks permission to issue and sell at par for cash, \$150,000 of its common capital stock to finance the cost of additional equipment.

The application shows that Pickwick Stages System on April 22, 1925, increased its authorized capital stock from \$500,000 to \$1,250,000. At present \$300,000 of stock, issued under former orders from the Commission, is outstanding and, with the exception of directors' shares, is all held by Pickwick Corporation. Dividends were paid at the rate of 10 per cent in 1924, and 32 per cent in 1923. No dividends were paid in 1922.

In its 1924 annual report filed with the Commission, the company reported that it operated 8 service cars and 69 passenger cars, consisting of 12 28-passenger cars, 25 18-passenger cars, 14 14-passenger cars, 6 11-passenger cars and 12 8-passenger cars. It now reports the necessity of acquiring, at a cost of \$201,500, additional equipment described as follows:

Four 22-passenger intercity type Pierce-Arrow automobile stages at the cost and value of \$10,000 each-----	\$40,000
Six 28-passenger intercity type Pierce-Arrow automobile stages at the cost and value of \$10,500 each-----	63,000
Two 18-passenger intercity type Pierce-Arrow automobile stages at the cost and value of \$9,000 each-----	18,000
One 28-passenger pay-as-you-enter type Pierce-Arrow automobile stage at the cost and value of-----	10,250
One 26-passenger intercity type Pierce-Arrow automobile stage at the cost and value of-----	10,250
Five 20-passenger parlor car type Pierce-Arrow automobile stages at the cost and value of \$12,000 each-----	60,000
Total for 19 cars-----	\$201,500

Applicant proposes to finance \$95,000 of the reported cost of \$201,500 through the issue of equipment trust certificates (Application No. 11075) and to provide the remaining \$106,500 through the issue and sale of the stock herein applied for. Applicant asks permission to issue and sell at par \$150,000 of stock. Assuming that the stock will be sold for such price, applicant will realize \$150,000 or \$43,500 more than required to finance the purchase of the equipment described above. Applicant did not submit any definite information showing for what additional equipment the \$43,500 will be expended. The order herein will provide that none of the \$43,500 may be expended except for such purposes as may be authorized by a supplemental order or orders.

ORDER.

Pickwick Stages System, having applied to the Railroad Commission for permission to issue and sell \$150,000 of stock, a public hearing

having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the application should be granted as provided herein and that the expenditures herein authorized be paid in whole or in part reasonably chargeable to operating expenses and income;

It is hereby ordered, that Pickwick Stages System be and it is authorized to issue and sell, at not less than par, for cash, shares of its common capital stock.

The authority herein granted is subject to the following conditions:

1. Applicant may use approximately \$106,500 of the proceeds received from the sale of the stock herein authorized to finance, in whole or in part, the cost of the equipment described in the foregoing opinion. The remaining proceeds may be expended only for such purposes as may be hereafter authorized by a supplemental order or orders.

2. Applicant shall keep such record of the issue, sale and disposition of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this decision.

3. The authority herein granted will become effective upon the date hereof but none of the stock herein authorized may be issued after December 31, 1925.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15064.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES SYSTEM, A CORPORATION, FOR AN ORDER PERMITTING IT TO ISSUE ONE HUNDRED THOUSAND DOLLARS OF EQUIPMENT TRUST CERTIFICATES.

Application No. 11075.

Decided June 15, 1925.

SECURITIES—EQUIPMENT TRUST CERTIFICATES—To Issue.—Application of Pickwick Stages System to issue \$100,000 of 7 per cent serial equipment trust certificates granted.

Warren E. Libby, for Applicant.

BY THE COMMISSION.

OPINION.

Pickwick Stages System, a corporation, asks the Railroad Commission to make an order authorizing the issue and sale of \$100,000 of equipment trust certificates for the purpose of financing in part the cost of additional equipment.

The application shows that the company proposes to acquire equipment described as follows:

Four 22-passenger intercity type Pierce-Arrow automobile stages of the cost and value of \$10,000 each and-----	\$40,000
Six 28-passenger intercity Pierce-Arrow automobile stages of the cost and value of \$10,500 each-----	63,000
Two 18-passenger intercity type Pierce-Arrow automobile stages of the cost and value of \$9,000 each-----	18,000
One 28-passenger pay-as-you-enter type Pierce-Arrow automobile stage of the cost and value of-----	10,250
One 26-passenger intercity type Pierce-Arrow automobile stage of the cost and value of-----	10,250
Five 20-passenger parlor-car type Pierce-Arrow automobile stages of the cost and value of \$12,000 each-----	60,000
Total for 19 cars-----	\$201,500

It is of record that applicant has entered into an agreement for the sale of the \$100,000 equipment trust certificates at 95 per cent of their face value and accrued interest. The \$106,500 additional money which applicant must procure in order to pay for the equipment will be obtained through the issue and sale of common stock. (Application No. 11074.)

The equipment trust certificates which applicant asks permission to issue are to be dated May 15, 1925, and mature as follows:

Ten thousand dollars due August 15, 1926; \$20,000 due August 15, 1927; \$20,000 due August 15, 1928; \$25,000 due August 15, 1929; \$25,000 due August 15, 1930.

There are to be attached to the certificates dividend warrants evidencing the right of the holders of the certificates to dividends at the rate of 7 per cent per annum payable semiannually August 15th and February 15th. The payment of the certificates and the dividend warrants is to be guaranteed by endorsement by the Pickwick Corporation, a company which controls applicant through stock ownership.

There has been filed in this proceeding as applicant's Exhibit "B," a copy of applicant's proposed equipment trust agreement and as its Exhibit "C," a copy of the proposed lease agreement under which applicant is given the right to operate equipment referred to herein. At the hearing both Exhibits "B" and "C" were modified. As modified, the equipment trust agreement and lease agreement are in satisfactory form.

There is to be attached to the equipment, which applicant intends to acquire through the issue of the equipment trust certificates, a metal plate bearing the following:

"Pickwick Stages System,
Equipment Trust, Series (D),
Title Guarantee and Trust Company, Trustee,
Owner and Lessor."

Under the terms of the lease agreement the Pickwick Stages System agrees to pay the difference between the cost of the equipment delivered and the amount realized from the sale of the equipment trust certificates, agrees to maintain the equipment in good operating condition and further agrees to pay to the trustee or his assigns an amount of money which will be sufficient to pay all necessary and reasonable expenses of the trust including all expenses connected with the trust equipment and the lease thereof; all taxes, except such portion of any federal income tax with respect to such income as shall be in excess of 2 per cent; all dividend warrants attached to the trust certificates and the principal of the trust certificates when the same shall become due and payable under the provision of the trust agreement.

While the order herein will authorize the execution of the lease agreement, it should be understood that the Commission by authorizing the execution of such agreement does not bind itself to recognize the rate which applicant has agreed to pay for the equipment as a proper charge to operating expenses.

ORDER.

Pickwick Stages System, a corporation, having applied to the Railroad Commission for an order authorizing the execution of an equipment trust agreement and lease agreement and the issue of equipment trust certificates, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that no money, property or labor to be procured or paid for through the issue of such certificates is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses;

It is hereby ordered, that Pickwick Stages System, a corporation, be and it is hereby authorized to execute and enter into an equipment trust agreement and a lease agreement substantially in the same form as those filed with the Commission as applicant's Exhibits "B" and "C" respectively (as modified at hearing) and to assume or guarantee the payment of not exceeding \$100,000 of 7 per cent serial equipment trust certificates, the issue of which is hereby authorized.

The authority herein granted is subject to further conditions as follows:

1. The equipment trust certificates which are herein authorized to be issued shall be sold at not less than 95 per cent of their face value plus accrued interest and the proceeds other than accrued interest used to pay in part the cost of the additional equipment to which reference is made in the foregoing opinion. The accrued interest may be used for general corporate purposes.

2. The authority herein granted to execute an equipment trust agreement and lease agreement is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of such equipment trust agreement and lease agreement as to such other legal requirements to which said equipment trust agreement and lease agreement may be subject.

3. Within thirty (30) days after execution of the equipment trust agreement and lease agreement applicant shall file with the Commission certified copies of such equipment trust agreement and lease agreement.

4. Applicant shall keep such record of the issue and sale of the equipment trust certificates and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$100. Under the authority herein granted no certificates may be issued after November 30, 1925.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15065.

IN THE MATTER OF THE APPLICATION OF O. W. JACKSON, AN INDIVIDUAL, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE UNDER CONTRACT A MOTOR FREIGHT SERVICE BETWEEN IMPERIAL AND EL CENTRO, CALIFORNIA, AND SAN DIEGO, CALIFORNIA.

Application No. 10868.

Decided June 15, 1925.

CERTIFICATE—AUTO TRUCK—PRIVATE CONVENIENCE—APPLICATION DENIED—PUBLIC NECESSITY NOT SHOWN.—Private convenience and necessity do not warrant granting certificate in the absence of complaint against existing service.

Hardy, Elliott and Aberle, by *Fred Aberle, Jr.*, for Applicant.

P. C. Thacker, for Pioneer Truck and Transfer Company, Protestant.

F. B. Dorsey, for San Diego and Arizona Railway Company, Protestant.

H. J. Bischoff, for Borderland Express, Protestant.

T. A. Woods, for American Railway Express Company, Protestant.

BY THE COMMISSION.

OPINION.

O. W. Jackson has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile truck line as a contract carrier of freight between Imperial and El Centro in Imperial County, on the one hand, and San Diego on the other hand.

A public hearing on this application was conducted by Examiner Handford at Los Angeles, the matter was duly submitted on the filing of briefs, and it is now ready for decision.

Applicant proposes to operate in connection with two certain contracts heretofore entered into with Valley Wholesale Grocery Company of El Centro and the Pacific Land and Cattle Company of Imperial. Under these contracts applicant proposes to haul groceries, merchandise and all other commodities for the Valley Wholesale Grocery Company from San Diego to El Centro, and to haul meats and all other articles of merchandise from Imperial to San Diego exclusively for the Pacific Land and Cattle Company. Under the respective contracts, applicant is obligated to make three trips per week between San Diego and El Centro and Imperial, being guaranteed a capacity load in each direction at rates of forty (40) cents per ton up to a total of 125 tons; and of fifty (50) cents per ton on all tonnage in excess of 125 tons per month; with a guarantee of \$500 per month from each of the companies for which hauling has been arranged under contract. Applicant has available for this service one 3½-ton truck of 1925 model, valued at approximately \$5,800, and has also arrangements whereby a 3½-ton Moreland truck can be secured in case of breakdown or emergency.

Applicant, testifying in his own behalf, asserts that the desired service is necessary, particularly for the movement of the dressed meats and other products of the Pacific Land and Cattle Company; that he is in a position to give dependable service in the handling of such commodities; that he has had some six years' experience in truck transportation; that he was requested to arrange and install the proposed service by the Pacific Land and Cattle Company; that upon securing the contract from the cattle company he also secured a contract from the Valley Wholesale Grocery Company thereby providing a capacity load back-haul from San Diego to El Centro, the combination of the capacity loads in both directions making possible the success of the proposed venture. Applicant stated that he would not accept a certificate for a one-way haul, the combination of the hauls arising from both contracts being necessary to provide sufficient revenue.

Witnesses representing the Pacific Land and Cattle Company and appearing in support of the application, testified that the service now proposed to be handled under contract was formerly handled by protestant, Borderland Express; that the cattle company desired to control and direct by its own methods the transportation of its products and that this desire was one of the reasons for execution of the contract; that while the Borderland Express Company had handled the shipments to the best of its ability, goods were not always delivered in the best of condition, there being some chafing and, in one instance, loss by pilferage; that applicant was considered to have the necessary qualifications to successfully undertake the transportation service and conduct same in a manner in accordance with the cattle company's requirements; that the cattle company anticipated receiving better and more economical service under the proposed contract than was available from the authorized carriers; and that if the application was not granted it was the attitude of the cattle company officials that they would establish their own trucks to be used in the carriage of their products. It was further testified that the cattle company would give any carrier a contract for the same class of service as that anticipated from the applicant under the contract already executed. There was no evidence offered in support of the necessity for the transportation of the groceries, supplies and merchandise for the Valley Wholesale Grocery Company other than that given by the applicant.

The granting of the desired certificate is opposed by Borderland Express, San Diego and Arizona Railway Company, Pioneer Truck and Transfer Company and American Railway Express Company.

Mr. F. B. Dorsey, traffic manager of San Diego and Arizona Railway Company, testified as to the investment in property and facilities by his company; that daily express service was available between El Centro and San Diego; that tri-weekly local freight service was given and that prior to the advent of authorized truck lines a daily local freight service had been available; and that the granting of the application was protested on the basis that adequate facilities were offered and at reasonable rates, and against which service and rates there had been no complaint by the public.

W. H. Gibson, proprietor of the Borderland Express, an authorized motor freight carrier, testified as to the equipment available for the public over his route; that two or three trucks moved each way daily; that empty equipment was always available for the movement of additional freight in both directions; and that he was ready, able and willing to provide all service necessary in the hauling of commodities between San Diego and El Centro over which route he held a certificate. Exhibits filed by this protestant showed an unused tonnage capacity during the period March 2d to April 9th, both dates inclusive, of 623

tons westbound and of 412 tons eastbound between Imperial Valley and San Diego.

After full consideration of all the evidence and exhibits in this proceeding, we are of the opinion and hereby find as a fact that there has been no showing made by applicant that public convenience and necessity require the establishment of the proposed service. The only necessity, if such there be, is that of the Pacific Land and Cattle Company who desire to more closely supervise the handling of their dressed meats and other products from the packing house in Imperial to the cold storage warehouse in San Diego. This company has not shipments in sufficient volume to justify their handling in earload lots, under refrigeration, by railroad and has therefore been compelled to use motor trucks to compete with their products in the San Diego market. There is no showing that the handling of these commodities by the authorized carrier has been unsatisfactory, other than that it is the desire of the cattle company to so closely and intimately control their shipments that they desire to practically select the employee that is to handle them, and for such reason they have persuaded applicant to seek authority for the carriage of their goods. To enable the applicant to successfully undertake the proposed service it has been necessary to secure a capacity load back-haul and to such end a contract has been negotiated with the Valley Wholesale Grocery Company for the movement of its shipments from San Diego to El Centro. These shipments consist of commodities such as are usually handled by wholesale grocery firms and are not perishable in their nature and there is nothing in the record which indicates, other than that a contract has been executed with the applicant, that there is any complaint as to the service of the authorized rail and truck carriers, either as to rates, time schedules or service.

Under the conditions presented in this proceeding the Commission is asked to issue a certificate of public convenience and necessity to authorize the carriage of the products of a particular shipper and to do so when there is no showing that the facilities, service and rates of the authorized carriers are the subject of complaint, either as to their being inadequate, discriminatory or unreasonable. Such a premise is not justification for the granting of a certificate and if the shipper desiring absolute control over its freight movements cares to transport its products in its own trucks, there is no certificate required nor is the matter one within the jurisdiction of the Commission under the provisions of chapter 213, Statutes of 1917, and effective amendments thereto, and, from the testimony herein, in no other manner will the shipper secure the intimate personal supervision which it is seeking, and which apparently was the underlying reason for the execution of the contract. The application herein asks that a certificate of public convenience and necessity be issued; the evidence shows that private convenience and

necessity is to be served and such for but one shipper. Under such a state of facts the Commission, in the interest of public policy, can not issue the certificate as prayed for and the application will be denied.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted following the receipt of briefs, the Commission being now fully advised and basing its order on the finding of fact as set forth in the preceding opinion:

The Railroad Commission hereby declares that public convenience and necessity do not require the operation by O. W. Jackson of an automobile truck line as a contract carrier of freight between Imperial and El Centro on the one hand and San Diego on the other hand; and

It is hereby ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this fifteenth day of June, 1925.

DECISION No. 15072.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER REVISING THE BASE RATE FOR GAS SERVICE AS HERETOFORE FIXED BY DECISION No. 9397, CASE No. 1611.

Application No. 8173.

Decided June 18, 1925.

RATES—GAS UTILITY—AUTOMATIC ADJUSTMENT.—Coast Valleys Gas and Electric Company directed to reduce rates for manufactured gas three cents per thousand cubic feet in Monterey, and one cent per thousand cubic feet in Salinas, as the result of reductions in price of fuel oil at those points.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas, in Decision No. 11243 (22 C. R. C. 512) in the above-entitled matter, the Commission provided, with reference to schedules "A" and "B" of Coast Valleys Gas and Electric Company, that such rates would be subject to decrease on approval of the Railroad Commission on the basis of three (3) cents per thousand cubic feet for each ten (10) cents decrease in the price of oil below the price of \$1.75 per barrel; and

Whereas, Coast Valleys Gas and Electric Company now makes affidavit that on May 16, 1925, the price of oil was decreased by ten (10) cents per barrel to \$1.55 per barrel in Monterey and \$1.70 per barrel in Salinas, these prices being in Monterey twenty (20) cents per barrel below the basic price and in Salinas five (5) cents below the basic price upon which rates were established in Decision No. 11243;

It is hereby ordered, that Coast Valleys Gas and Electric Company establish its rates designated as schedules "A" and "B," so that Schedule "A" shall be six (6) cents per thousand cubic feet less than the basic rate set forth in said Decision No. 11243 and Schedule "B" shall be one (1) cent per thousand cubic feet less than the basic rate set forth in Decision No. 11243 in Application No. 8173.

It is hereby further ordered, that Coast Valleys Gas and Electric Company file with this Commission on or before June 20, 1925, a revision of its schedules as herein authorized to be effective on all regular meter readings taken on and after June 20, 1925.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this eighteenth day of June, 1925.

DECISION No. 15073.

IN THE MATTER OF THE APPLICATION OF THE FALL RIVER VALLEY TELEPHONE COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY COVERING THE OPERATION OF A TELEPHONE AND TELEGRAPH UTILITY IN CERTAIN PORTIONS OF SHASTA AND LASSEN COUNTIES, CALIFORNIA.

Application No. 10791.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE SERVICE FURNISHED BY BASS TELEPHONE LINES IN THE TOWN OF FALL RIVER MILLS AND ADJACENT TERRITORY.

Case No. 2110.

Decided June 20, 1925.

CERTIFICATE—TELEPHONE UTILITY—TRANSFER.—Fall River Valley Telephone Company authorized to operate the systems known as North Telephone Company, South Pit River Telephone Company and Glenburn Telephone Company, and to reimburse Bass Telephone Lines for services and equipment taken over in the town of Fall River Mills. Latter utility directed to withdraw from town of Fall River Mills when and after Fall River Valley Telephone Company establishes local exchange service therein.

Edson Abel, for Applicant and California Farm Bureau Federation.
George W. Johnstone, for Bass Telephone Lines.

BY THE COMMISSION.

OPINION.

Fall River Valley Telephone Company, in the above application, asks for authority to operate as a public utility for the purpose of providing adequate telephone service in the communities of McArthur, Fall River Mills and Glenburn and adjacent territory. The telephone as a means of communication is not new in this area, the Bass Telephone Lines, Williams Telephone Line, North Telephone Company, South Pit River Telephone Company and Glenburn Telephone Company having, at

some time, provided telephone service in portions of this territory. The Bass Telephone Lines and Williams Telephone Line have been operated as public utilities while the North Telephone Company, South Pit River Telephone Company and Glenburn Telephone Company have been operated as mutual organizations. It is these last three companies that applicant proposes to consolidate and operate as a combined property under the name of Fall River Valley Telephone Company.

A public hearing was held in these two proceedings before Examiner Satterwhite, at McArthur, on March 24, 1925.

Testimony at the hearing shows that although certain telephone lines exist and are now in operation in the Fall River Valley, the service afforded by these facilities, due to the type and condition of the lines and lack of cooperation, is far from adequately fulfilling the needs of the communities. North Telephone Company, South Pit River Telephone Company and Glenburn Telephone Company have intercommunication between their own subscribers but no dependable connection with the outside world. An exhibit was introduced in evidence consisting of a statement signed by E. R. Feuz, owner of Williams Telephone Line, to the effect that Williams Line does not claim that the territory in which the Fall River Valley Company proposes to operate should be served by the Williams Line and has no objection to this territory being served by applicant. According to applicant's testimony, that portion of the Williams Line in Fall River Valley has not been used for some time and is not now in a condition to be used in rendering telephone service. Bass Telephone Lines has a toll line, with connections at Redding, Montgomery Creek and other points, which terminates at Fall River Mills. Bass Lines has also a switching point, or central office, in Fall River Mills but, due probably to lack of aggressiveness in the development of the territory, has now only one exchange subscriber connected to this central office.

While it was convincingly shown that more adequate communication facilities are needed in Fall River Valley it did not appear that the plan of operation proposed by applicant was a satisfactory method of rendering telephone service. The plan applicant sets forth in its original application contemplated the entire valley, including the communities of McArthur, Fall River Mills and Glenburn being served as one exchange. A toll line was proposed between McArthur and Fall River Mills, although three other lines, each having connected stations, existed as connecting links between these two points. One subscriber was to be connected, as at present, to the Bass central office at Fall River Mills, while neighboring subscribers were to be connected to applicant's central office at McArthur. Such an arrangement would lead to discrimination as between subscribers on different lines and in

different areas. These points were brought out in detail and thoroughly discussed at the hearing.

It was suggested that as applicant was in possession of the facts in the matter, further time be given in which to file a revised plan of operation before submitting this proceeding. Accordingly, the proceeding was held open until April 13, 1925, which time was later extended to May 25, 1925.

On May 23, 1925, applicant filed an amended application in which it asks for a certificate of public convenience and necessity as requested in its original application and further that the principle of operation governing the furnishing of telephone service be adopted as suggested at the hearing. Applicant proposes that its territory be divided into three exchange areas with central offices at McArthur, Fall River Mills and Glenburn. It proposes further to so arrange existing lines and add new construction where necessary that toll circuits will be provided between central offices, that each subscriber's station will be permanently connected to one central office only and that toll connections will be made with the toll line of the Bass Lines at Fall River Mills for communications to points outside Fall River Valley. Applicant has attached to its amended application a signed statement by Bass Telephone Lines in which Bass Telephone Lines agrees to abandon the exchange territory at Fall River Mills provided applicant is given authority to serve this town and that Fall River Valley Company reimburses Bass Lines for any expense incurred by it in such abandonment.

It appears that the present telephone users and the public generally in Fall River Valley would be benefited by the granting of this application. There appears to be no reason why applicant should not now be allowed to commence operations as a public utility and to render telephone service under the conditions as proposed in its amended application, as outlined above, and under the rates as shown in Exhibit 1 attached hereto. Accordingly, the order following will so provide.

ORDER.

In Application No. 10791.

Fall River Valley Telephone Company having applied to the Railroad Commission for an order granting a certificate of public convenience and necessity requiring it to operate as a public utility and to render telephone service in and in the vicinity of the Fall River Valley in Shasta and Lassen counties, California, under rates, rules and regulations as set forth in its application, and for such further order as may seem proper to this Commission, a public hearing having been held, the Railroad Commission having fully considered all evidence in this proceeding, and the matter now being submitted and ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require applicant to operate the systems known as North Telephone Company, South Pit River Telephone Company and Glenburn Telephone Company as a public telephone utility and to establish and furnish telephone and telegraph service throughout the territory heretofore served by the North Telephone Company, South Pit River Telephone Company and Glenburn Telephone Company and the town of Fall River Mills.

The Railroad Commission finds as a fact that the Fall River Valley Telephone Company should establish and render local exchange and toll telephone and telegraph service throughout the territory formerly served by the North Telephone Company, South Pit River Telephone Company and Glenburn Telephone Company, and also the town of Fall River Mills, under rates as set forth in this order and that Fall River Valley Telephone Company reimburse the Bass Telephone Lines for all expenses incurred in the abandonment of the local exchange at Fall River Mills.

Basing its order on the foregoing findings of fact and upon other findings of fact contained in the opinion preceding this order;

It is hereby ordered, that Fall River Valley Telephone Company shall charge and collect the rates for local exchange and toll telephone and telegraph service as set forth in Exhibit 1, attached hereto, after showing to this Commission that it has completed rearrangements, construction and installations necessary to render service in accordance with the plan shown in Exhibit "A" of its amended application, which provides that central office switchboards be installed at McArthur, Fall River Mills and Glenburn, that toll circuits having no connected subscribers' stations be constructed for communication between McArthur and Fall River Mills, McArthur and Glenburn and Glenburn and Fall River Mills, and that rearrangements be made so that each subscriber's station will be provided with local exchange service from one exchange only, and upon issuance of a supplemental order by this Commission.

It is hereby further ordered, that the aforesaid installations, construction and rearrangements shall be commenced on or before July 1, 1925, and that said installations, construction and rearrangements necessary for the purpose of furnishing telephone service as herein provided shall be completed on or before October 1, 1925.

It is hereby further ordered, that Fall River Valley Telephone Company reimburse the Bass Telephone Lines for all expenses incurred in the abandonment of the local exchange at Fall River Mills and that the amount of these expenses be submitted to the Railroad Commission for approval.

In Case No. 2110.

The Railroad Commission having instituted a proceeding on its own motion, investigating the service furnished by Bass Telephone Lines in the town of Fall River Mills and adjacent territory, a hearing having been held and the matter now being submitted and ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the Bass Telephone Lines should withdraw and abandon all local telephone exchange utility operations in the town of Fall River Mills when and after the Fall River Valley Telephone Company establishes local exchange telephone service in said town.

Basing its order on the foregoing findings of fact and other findings of fact contained in the opinion preceding this order;

It is hereby ordered, that the Bass Telephone Lines withdraw and abandon all local telephone exchange utility operations in the town of Fall River Mills when and after the Fall River Valley Telephone Company establishes local exchange telephone service in said town and after supplemental order from this Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twentieth day of June, 1925.

APPLICATION NO. 10791.

EXHIBIT NO. 1.

**EXCHANGE AND TOLL TELEPHONE AND TELEGRAPH RATES
FALL RIVER VALLEY TELEPHONE COMPANY.**

Exchange Service Schedule No. A-1.

General Service.

Applicable to service within any one exchange area.

Rate. Class of service.	Rate per station per month, wall service
Individual line, business-----	\$2 50
Individual line, residence -----	1 75
Party line, business -----	2 00
Party line, residence -----	1 25
Extension telephone on same premises as primary station, additional amount -----	75

Conditions.

1. For the above rate the company owns and maintains all of the switching services and telephone lines including those to the first point of permanent support on subscriber's premises, but does not furnish, own or maintain the telephone instruments or batteries.

2. Subscribers will be allowed an unlimited number of messages to all stations within the same exchange area.

3. For messages beyond the limits of subscriber's exchange area, see Schedule No. B-1.

Exchange Service Schedule No. A-2.

General Service.

Applicable to service within any one exchange area.

Rate.

Class of service.	Rate per month per station, wall set
Individual line, business -----	\$2 75
Individual line, residence -----	2 25
Party line, business -----	2 00
Party line, residence -----	1 50
Extension telephone on same premises as primary station, additional amount -----	75

Conditions.

1. For the above rate the company owns and maintains all telephone equipment including instruments and batteries.
2. Subscribers will be allowed an unlimited number of messages to all stations within the same exchange area.
3. For messages beyond the limits of subscriber's exchange area, see Schedule No. B-1.

Exchange Service Schedule No. A-3.*Pay Station Service.*

Applicable to messages from company's nonlisted pay stations.

Rate.

Each message to any station within local exchange area ----- \$0 10

Toll Telephone Service Schedule No. B-1.

The following listed rates are effective for toll telephone service over the toll lines of the Fall River Valley Telephone Company:

Rate.

(1) Person-to-person service—

McArthur to Fall River Mills -----	\$0 15
Glenburn to Fall River Mills -----	15
McArthur to Glenburn -----	15

The above rates are for an initial period of three minutes. For overtime periods and rates, see "Overtime rates."

(2) Appointment and messenger service—

McArthur to Fall River Mills -----	\$0 20
Glenburn to Fall River Mills -----	20
McArthur to Glenburn -----	20

The above rates are for an initial period of three minutes. For overtime periods and rates, see "Overtime rates."

(3) Overtime rates—

Overtime rate and period for either person-to-person or appointment and messenger service is \$0.05 for each additional minute or fraction thereof.

(4) Report charge—

Report charge ----- \$0 05

Conditions.

The administration of rates for toll telephone service on the lines of this company is in accordance with Order No. 2495, dated December 13, 1918, and Order No. 2797, dated February 17, 1919, of the Postmaster General of the United States with the exception that station-to-station service is not furnished.

The charges for messages from stations within any exchange area of this company to or from stations on the lines of other companies, will include the proper charges of this company plus the charges accruing to each message for service over the lines of the other companies. Station-to-station service will be provided between points on the lines of the Fall River Valley Telephone Company and points on the lines of other companies which furnish such service and person-to-person rates of this company will apply to such service over this company's lines.

Telegraph Service Schedule No. C-1.

Applicable to telegraph service between Fall River Mills and Glenburn, and between Fall River Mills and McArthur.

Rate.

Class of service.	
(a) Each telegram of 10 words or less.....	\$0 25
Each additional word.....	02
(b) Each night letter of 50 words or less.....	\$0 25
Each additional 10 words or less.....	05

Conditions.

For telegraph service to or from stations on the lines of other companies, the charges will include the proper charge for service rendered by this company plus all charges accruing to each message for service over the lines of the other companies.

DECISION No. 15074

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF TUOLUMNE COUNTY TO CONSTRUCT A CROSSING AT GRADE OVER THE TRACKS OF THE SIERRA RAILWAY COMPANY NEAR STANDARD, IN SAID COUNTY.

Application No. 10838.

Decided June 20, 1925.

GRADE CROSSING—STEAM RAILROAD—UNDUE HAZARD.—Application denied because of undue hazard of proposed crossing, although it is held that a public crossing in the general vicinity is required by public convenience and necessity.

Rowan Harāin, for the Applicant.

Sanborn and Roehl, and *DeLancey Smith*, by *H. H. Sanborn*, for the Sierra Railway Company, Protestant.

J. B. Curtin, for Standard Lumber Company, Protestant.

BY THE COMMISSION.

OPINION.

This is a petition of Tuolumne County to construct a crossing at grade over the tracks of the Sierra Railway Company near Standard, brought under the provisions of section 2694 of the Political Code. A public hearing was held before Examiner Austin in the board of supervisors' room of the Tuolumne County courthouse at Sonora, California, April 21, 1925.

Counsel for both Standard Lumber Company and for Sierra Railway Company of California objected to proceeding with the application by reason of a misstatement of fact in the petition for appointment of viewers. The petition alleges that the names of the persons, firms or corporations over whose land said proposed road is located are as follows: Sylvester Fitzpatrick; Sierra Railway Company of California, a railroad corporation; Standard Lumber Company, a corporation; all of whom were served with a notice of hearing by this Commission. The report of the viewers received in evidence states that Sylvester Fitzpatrick is not now an owner of land over which the proposed road is located, he having granted his land to Salvatore Cavaliere and wife, who are now the owners. It therefore appears that the petition for appointment of viewers filed with this Commission is in error in that particular.

The townsite of Standard lies approximately five miles east of the county seat, Sonora. To reach Standard from Sonora one travels the Mono highway, a lateral of the state highway system, easterly from Sonora to Sullivan's Creek. From this point two roads are available—our continuing on the Mono road to the old Fitzpatrick residence, thence by private road approximately three-quarters of a mile south to Standard; the other by taking the southerly (Tuolumne) road for about three miles, thence by way of a private road northerly about one mile to Standard. The land lying between the Mono highway and the Tuolumne road in the vicinity of Standard is practically all owned by the Standard Lumber Company and is devoted to lumbering operations. The lumber company has erected at Standard a general store, meat market, hospital, rooming houses and a number of residences. Space in one of these buildings is rented to the Post Office Department for the Standard post office, which serves the town and surrounding farms. The Sierra Railway is located at the northerly edge of the town and has established a freight and passenger station for the community. The public school for the Curtis Creek School District, which includes territory outside of the Standard Lumber Company's holdings, is located at Standard on land donated to the school district by the lumber company.

There is no public road into Standard, the only means of entrance and egress to the post office, school and stores being by the two private roads heretofore mentioned, which are maintained by the Standard Lumber Company. The viewers' petition seeks to establish a public road into Standard from the Mono road, the route being identical with the existing private road and crossing the Sierra Railway at a point just west of the Standard depot. There are no public crossings over the railway of roads which serve the same general territory served by this private crossing, the nearest crossing of any kind being a private farm crossing some 3000 feet to the east.

The testimony indicates that there are approximately twelve families living along the Mono highway north of Standard who desire to have a public road from that highway to Standard in order to reach such public facilities as the post office, public school and railway station. It was shown that during the school season there are approximately thirty children in this vicinity who attend the Curtis school. This local traffic will constitute the bulk of the travel on the proposed road, although in the summer time there is some through traffic.

Considerable evidence was introduced as to the probable future development of the road system within the county and it appears that this road would be more in the nature of a cross-county road carrying mainly rural traffic and is not expected to develop into a through traffic road.

It appears from testimony that public convenience and necessity justify the construction of a public crossing to serve this general territory at the present time.

The road is laid out across the Sierra Railway at a particularly undesirable point as regards railroad traffic. The Sierra Railway is used jointly by the Standard Lumber Company from Standard to Ralph's Station (east of Standard) for the purpose of handling logging trains from the mountains above Ralph's Station to the company's mill at Standard. These logging trains are brought into a siding at Standard east of the proposed crossing, where they are cut into several sections which later are backed over the crossing to the log pond, the empty cars then being brought back to the siding. This necessitates approximately six movements over the crossing for each train. The roundhouse for the lumber company locomotives is located west of the crossing so that a number of light engine movements are also necessary. This traffic moves only during the summer logging season, usually between April and November. The Sierra Railway Company operates daily two passenger trains and four freight trains, as well as the necessary switching movements for its station. It is estimated that there are fifty train movements a day over this crossing during the summer months and twenty movements per day during the winter months. As these movements are made in yard limits, they must, by Sierra Railway Company's rules, be made under control and therefore at low rates of speed.

The railway company's chief engineer testified that development of the lumber company's plant and the railroad company's traffic had reached a point where it would soon be necessary to install a second track at this point in order to facilitate switching movements. This double track, in conjunction with the back-up switching movements, presents a substantial hazard to vehicular traffic.

It was testified that the highway traffic is light and, as above mentioned, principally local. No estimate as to the volume of this traffic was made.

At the point of crossing the Sierra Railway is on a 3 per cent grade descending toward the west. The road approach from the north is approximately 6 per cent uphill toward the track. On the south side of the track the road is approximately level. The views are good except at the northeast corner of the intersection where an embankment completely obstructs the view of a southbound autoist until within thirty feet of the crossing.

The report of the viewers contains these statements:

The Standard Lumber Company also states that should they, for any reason, ever close the present road, then they would have another road constructed to take the place of the present road; in fact, a survey has been made for such a road, the location of which is shown on the accompanying map and marked "Standard Proposed

New Road." This road would be a level railroad crossing road with a view both ways along the railroad of about 300 feet.

Estimated cost of standard proposed road:

Road -----	\$2,500 00
Concrete Bridge No. 1-----	1,000 00
Concrete Bridge No. 2-----	1,000 00
Right of way (5 acres at \$100)-----	500 00
	<hr/>
	\$5,000 00

The Standard Lumber Company propose to construct a new road, as shown on map, and maintain it at their own expense. This road would serve the same purpose as present road and would have a much better railroad crossing than the present one. There would be an improvement also in the grades of this road although in the present road they are not excessive.

This proposed road crosses the Sierra Railway at a point some 2500 feet east of the depot and approximately 300 feet west of the Standard yard limit. At this point the railroad traffic is very materially reduced, consisting of eighteen movements during the summer months and six movements during the winter months. The approach views at this location are fairly good. There is a private farm crossing 600 feet east of this proposed crossing which is still better as far as physical characteristics are concerned and which has the same number of railroad movements over it. The hazard at either of these crossings is materially less than at the location applied for in this proceeding.

In their report the viewers express the opinion that the present road should not be adopted as the county road without constructing an underground crossing. The cost of such a separation was estimated at \$16,750 by the county engineer and at \$20,000 by the railway engineer. Testimony of the Commission's engineer was that the traffic over the proposed road would not be sufficient to justify the cost of a grade separation.

After careful consideration of all of the evidence, we conclude that public convenience and necessity require the construction of a public crossing over the Sierra Railway Company's tracks in the general vicinity of Standard, that the crossing as applied for is unduly hazardous, that the cost of a grade separation is such as to not warrant its construction and that other locations are available for the crossing where the hazard is much reduced and where no grade separation will be required. Furthermore, in view of the erroneous statements respecting the names of the landowners contained in the petition filed with the board of supervisors, it is apparent that any action which this Commission might now take in the matter would only invite protracted litigation. We are of the opinion, therefore, that this proceeding should be dismissed without prejudice to such other proceeding as may be brought to establish a crossing at a more suitable point.

ORDER.

The board of supervisors of Tuolumne County having filed with this Commission under the provisions of section 2694 of the Political Code of California a certified copy of a petition of freeholders of said county for the construction of a certain road, together with a certified copy of the order of the board of supervisors appointing viewers to view said road, which road crosses the track and right of way of Sierra Railway Company near Standard, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision; therefore

It is hereby ordered, that the above-entitled proceeding be and it is hereby dismissed without prejudice.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this twentieth day of June, 1925.

DECISION No. 15075.

IN THE MATTER OF THE APPLICATION OF THE ROSEVILLE TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 11194.

Decided June 20, 1925.

SECURITIES—STOCK—TO ISSUE.—Application of Roseville Telephone Company to issue and sell at par \$7,850 of common capital stock, granted.

W. Hanisch for Applicant.

BY THE COMMISSION.

OPINION.

Roseville Telephone Company asks permission to issue and sell at par \$7,850 of its common capital stock and use the proceeds to reimburse its treasury on account of earnings expended for additions and betterments to its plants and properties.

Roseville Telephone Company was organized on or about April 1, 1914, with an authorized capital stock of \$25,000 divided into 2500 shares of the par value of \$10 each, all shares being common. During 1923 the company's articles of incorporation were amended and its authorized stock increased from \$25,000 to \$50,000. As of December 31, 1924, the company reports \$42,150 of stock outstanding. It is of record that the same amount of stock is now outstanding and that the company has no indebtedness.

Attached to the petition filed in this proceeding is a statement showing in detail expenditures for additions and betterments amounting to

\$7,853.20. W. Hanisch, manager of Roseville Telephone Company, testified that the expenditures in such statement had actually been incurred and that they represented the cost of materials and supplies and the labor necessary to install the same. No overhead expenses are included in the statement. He also testified that if the company is permitted to issue the \$7,850 of stock, such stock will be purchased by the company's present stockholders and that while the proceeds obtained from the sale of the stock will be used to reimburse the company's treasury, such proceeds in turn will be expended to make necessary replacements to the company's properties and construct further additions and betterments.

ORDER.

Roseville Telephone Company having applied to the Railroad Commission for permission to issue and sell \$7,850 of stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as herein provided; therefore,

It is hereby ordered that Roseville Telephone Company be and it is hereby authorized to issue and sell on or before December 1, 1925, for cash at not less than par \$7,850 of its common capital stock and use the proceeds obtained from the sale of such stock to reimburse its treasury on account of earnings expended for additions and betterments.

The authority herein granted is subject to further conditions as herein follows:

1. Roseville Telephone Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this twentieth day of June, 1925.

DECISION No. 15085.

IN THE MATTER OF THE APPLICATION OF CITY TRANSFER AND STORAGE COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO TRUCK SERVICE BETWEEN LONG BEACH AND ALL POINTS WITHIN A RADIUS OF ONE HUNDRED FIFTY MILES THEREOF.

Application No. 9831.

IN THE MATTER OF THE APPLICATION OF ELLIS BROWN AND P. M. FOLLENSBEE, PARTNERS IN BUSINESS, UNDER THE NAME OF TRIANGLE TRANSFER AND STORAGE COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE TRUCK SERVICE FOR THE TRANSPORTATION OF HOUSEHOLD GOODS BETWEEN SAN DIEGO AND LOS ANGELES AND INTERMEDIATE POINTS, VIA THE COAST ROUTE.

Application No. 9915.

IN THE MATTER OF THE APPLICATION OF MILO W. BEKINS, FLOYD R. BEKINS, REED J. BEKINS, AND R. M. BEKINS HOLT, PARTNERS IN BUSINESS UNDER THE NAME OF BEKINS FIREPROOF STORAGE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR TRUCK SERVICE FOR THE TRANSPORTATION OF HOUSEHOLD GOODS BETWEEN (1) LOS ANGELES TO SAN FERNANDO VIA GLENDALE; (2) LOS ANGELES TO PASADENA; (3) LOS ANGELES TO SAN PEDRO AND LONG BEACH; (4) LOS ANGELES TO REDONDO, HERMOSA AND MANHATTAN BEACH; (5) LOS ANGELES TO VENICE, OCEAN PARK AND SANTA MONICA; (6) LOS ANGELES TO BANNING; (7) LOS ANGELES TO SAN DIEGO.

Application No. 9993.

IN THE MATTER OF THE APPLICATION OF MILO W. BEKINS, H. M. BURGESSON, F. L. ALLEN, JUDSON W. DAVIS AND J. R. ZIMMERMAN, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE TRUCK SERVICE FOR THE TRANSPORTATION OF HOUSEHOLD GOODS BETWEEN LOS ANGELES AND SAN DIEGO AND INTERMEDIATE POINTS.

Application No. 10022.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA HIGHWAY EXPRESS, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND ITS PRESENT MOTOR FREIGHT SERVICE FOR THE TRANSPORTATION OF HOUSEHOLD GOODS, PIANOS, TRUNKS, BAGGAGE AND OTHER PERSONAL EFFECTS, ALSO OFFICE AND STORE FURNITURE, FIXTURES AND EQUIPMENT TO INCLUDE BETWEEN SAN FRANCISCO PROPER ALSO OAKLAND PROPER AND LOS ANGELES VIA THE COAST HIGHWAY; ALSO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO REDEFINE ITS PRESENT OPERATIVE ROUTES—FRESNO-PASO ROBLES SOUTH TO LOS ANGELES; ALSO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND SOUTH FROM LOS ANGELES TO THE STATE'S BOUNDARY ITS PRESENT MOTOR FREIGHT SERVICE IN OPERATION LOS ANGELES AND NORTH.

Application No. 10208.

IN THE MATTER OF THE APPLICATION OF SECURITY VAN AND STORAGE COMPANY, INC., FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE TRUCK LOAD SHIPMENTS BETWEEN SANTA MONICA, OCEAN PARK, VENICE AND ALL POINTS IN TERRITORY INCLUDED IN FRESNO AND SAN LUIS OBISPO ON THE NORTH; BARSTOW AND SAN JACINTO ON THE EAST; AND SAN DIEGO AND NORTH ISLAND ON THE SOUTH.

Application No. 10481.

IN THE MATTER OF THE APPLICATION OF COAST TRUCK LINE FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A FREIGHT AUTO TRUCK SERVICE BETWEEN SAN DIEGO AND LOS ANGELES AND INTERMEDIATE POINTS; SAN DIEGO AND RIVERSIDE AND INTERMEDIATE POINTS; AND ESCONDIDO AND LOS ANGELES AND INTERMEDIATE POINTS.

Application No. 10817.

Decided June 22, 1925.

CERTIFICATE—AUTO. TRUCKS.—Consolidated service over existing routes of the several applicants granted. Application for joint service certificate denied.

Richard T. Eddy, for Applicants City Transfer and Storage Company and Bekins Fireproof Storage Company.

Wirt Francis, for Applicant Triangle Transfer and Storage Company, and protesting all other applications.

Lowenthal, Collins and Lowenthal, by *Victor Ford Collins*, for Applicants Milo W. Bekins et al.

Warren E. Libby and Harry N. Blair, for Applicant California Highway Express. *William P. Mealey and W. B. Gibbons*, for Applicant Security Van and Storage Company.

H. J. Bischoff, for Applicant Coast Truck Line, and protesting all other applications. *T. A. Woods and Edward Stern*, for American Railway Express, protesting all other applications.

L. V. Butterfield, for Atchison, Topeka and Santa Fe Railway Company, Protestant in Applications Nos. 9915, 10208, 10481 and 10817.

Harold W. Dill, for San Diego Truck Owners' Association, Protestant in Applications Nos. 9831, 9915, 9993, 10022, 10208 and 10481.

L. C. Zimmerman and F. W. Mielke, for Southern Pacific Company, Protestant in Applications Nos. 9831, 9915, 10208, 10481 and 10817.

Warren E. Libby, for Boulevard Express, Rex Transfer Company, Pickwick Stages, Inc., Protestant in Applications Nos. 9831, 9915 and 10481.

A. F. Schwartz, for Redondo-Los Angeles Express, Protestant in Application No. 9993.

H. E. Fleischer, for Los Angeles and Oxnard Daily Express, and Ojai and Ventura Express, Protestants.

L. T. Fletcher, for Service Motor Express, Protestant in all applications except No. 10817.

Harry N. Blair, for Hodge Transportation System, Protestant in Applications Nos. 10817 and 10481.

George Clark, for Bakersfield and Los Angeles Fast Freight, Los Angeles and West Side Transportation Company, and Santa Barbara and Los Angeles Motor Express, Protestants in Application No. 10481.

SEAVEY, *Commissioner*.

OPINION.

In Application No. 9831, City Transfer and Storage Company desires a certificate authorizing it to transport within a radius of 150 miles of the city of Long Beach, in truck load lots, furniture, household goods, pianos, personal effects, etc. It is alleged that Long Beach has become an all-year-round resort and has had an extremely rapid growth, resulting in the movement of an immense number of people and their household goods, etc.

Brown and Follensbee, partners, operating as Triangle Transfer and Storage Company, in their amended application, No. 9915, request the issuance of a certificate permitting them to transport commodities as in the foregoing application, also new furniture and show cases, between Los Angeles and San Diego and intermediate points, including territory within a radius of 30 miles of the route proposed and terminal points. Applicants allege that they have been operating continuously since 1913 and have created a demand for their specialized service which no other carrier gives.

Milo W. Bekins et al., in Application No. 9993, as amended, desire a certificate authorizing them to transport household goods, etc., office furniture and equipment over seven specified routes, one terminal in each instance being Los Angeles. In addition, territory 30 miles on either side of the proposed routes and 30 miles beyond terminals is included, together with all intermediate points. Permission is also desired to consolidate and join the operative rights heretofore received over the coast and valley routes, from and to the cities of Sacramento, Santa Rosa, San Francisco, Oakland and contiguous cities, and Los Angeles with the rights herein sought. Authorization is also desired for the establishment of certain joint through rates. Applicant, in justification for the granting of the desired certificate, alleges that operations have been carried on continuously since 1895, being engaged in storage, warehousing, household moving service and shipping, and that a demand exists for the service rendered which, with the increased population and highway improvement, necessitates the continued operation as heretofore carried on.

In Application No. 10022, as amended, Milo W. Bekins, H. M. Burgeson, F. L. Allen, Judson W. Davis, and J. R. Zimmerman, copartners, but acting for their respective firms with which they are identified, desire a certificate permitting the transporting of household goods, furniture, personal effects, etc., between Los Angeles and San Diego and intermediate points, together with territory 30 miles on either side of the route. It is alleged that the firms represented are conducting storage warehouses, receiving large shipments of household goods, etc., which can best be transported by applicant copartnership, as other truck and transportation companies, operating between Los Angeles and San Diego, are not equipped for and do not specialize in this class of movement, and that a great and growing necessity exists for this type of transportation.

California Highway Express, in its amended application No. 10208, desires a certificate permitting extensions of present operative rights on the coast and valley routes between Los Angeles as the southern terminal, and San Francisco and Oakland as the northern terminal, and routes not previously operated between Bakersfield, San Luis Obispo and Paso Robles, and in addition practically all the territory south and east of Los Angeles to the state boundary, routes in all cases being specifically set forth. The territory 25 miles on either side of the routes proposed is included. A linking up, uniting or merging of all operative rights, together with the ones sought, is requested though the rate structure as now in effect is not to be changed. Applicant alleges that its present operative rights are restricted to household goods, furniture, store and office equipment, trunks, personal effects, etc., for transporta-

tion between San Francisco and Los Angeles, and that a public demand exists for extension of operative rights to the territory proposed.

Application No. 10481, filed by Security Van and Storage Company, Inc., requests the issuance of a certificate authorizing it to handle truck load shipments between Los Angeles, Santa Monica, Ocean Park, Venice, Palms, Sawtelle and in all the territory bounded on the north by Fresno and San Luis Obispo, on the east by Barstow and San Jacinto, and on the south by San Diego and North Island. It is alleged that applicant has transported supplies, household goods and merchandise for certain construction companies, contractors and manufacturers to all points named and that a demand exists for the continuation of the service rendered.

In Application No. 10817, Coast Truck Line, a corporation, petitions for a certificate authorizing it to extend its present operative rights for motor truck transportation of household furniture to include an area of ten miles radius from terminal at San Diego, 25 miles radius from terminal at Los Angeles and Riverside, and 5 miles radius from terminal at Escondido. In addition, territory within 25 miles on either side of the highway traversed is desired. To justify the granting of this certificate applicant alleges that it is now operating trucks on regular schedules between the points noted and frequently has requests for transportation of household furniture and that this service can be rendered at minimum cost in connection with its regular service.

Attached to all these applications are proposed rules, regulations, tariffs, schedules, lists of present and available equipment, etc.

Public hearings were held in the above applications at Los Angeles, at which time they were consolidated for the purpose of receiving evidence, were duly submitted following the filing of briefs, and are now ready for decision.

City Transfer and Storage Company is engaged in a general local transfer and trucking business and in the storage of household goods and commercial warehousing in Long Beach, and also as authorized carriers of freight between Long Beach and Los Angeles and between Long Beach, Wilmington and San Pedro. The Long Beach and Los Angeles operative right was obtained due to operations prior to May 1, 1917, in conformity with the Auto Stage and Truck Transportation Act.

This company was originally organized as a copartnership in 1903, and on March 7, 1920, was incorporated as at present constituted. Testimony presented showed that the assets of applicant were \$337,000, the major items of which were terminal properties at Long Beach and leases in Los Angeles, garage, shop, and 52 pieces of equipment, 21 of which are devoted to the handling of household goods.

Applicant makes six daily trips between Long Beach and Los Angeles for the general movement of freight. Long distance hauling,

including movement of household goods, has been engaged in since 1908. Uncrated household goods are not mixed with general merchandise but are handled by the special equipment.

In this proceeding, applicant seeks to continue movement of household goods as carried on in the past from Long Beach to all points within a 150-mile radius, in truck load lots of two different sized units, direct from Long Beach to destination, or from other points when destined to Long Beach. This is for movement from warehouse to warehouse, house to warehouse, or house to house. No intermediate business is to be done, Long Beach in all cases being either the point of origin or destination. No schedules are to be maintained, the offered service being on demand of users who desire to load a truck at a time convenient to them and have same carried through to destination, thus avoiding rehandling with possible damage to the goods.

In justification of the need and demand for this class of service, an exhibit was filed showing the number of loads handled in the years 1908 to 1924, inclusive, with the exception of three years. Testimony was also given as to movements to certain cities and in comparing the two it is apparent that discrepancies occur and too much value may not be attached to either. It is evident, however, that the transportation of uncrated household goods and furniture as heretofore carried on did meet a need and demand of the public and should be continued.

Ellis Brown and P. M. Follensbee, partners, operating under the fictitious name of Triangle Transfer and Storage Company, own a two-story warehouse at San Diego and do a local business and also hauling to Los Angeles. Their assets are \$62,024 less a mortgage of \$18,622. The firm has operated in San Diego since 1913 and initial trips to Los Angeles were started in 1916. The first out-of-town hauling of household goods, new and old, office furniture, personal effects, etc., was business due to solicitation.

In 1924 new furniture was hauled in greater volume than in previous years, 60 per cent of the entire tonnage being new furniture. This business was not solicited.

The tonnage transported and trips made were as follows:

Year	Tonnage	Number of trips
1916	55.3 tons-----	21 round trips San Diego-Los Angeles
1917	233.7 tons-----	99 round trips San Diego-Los Angeles
1918	52.9 tons-----	17 round trips San Diego-Los Angeles
1919	107.9 tons-----	32 round trips San Diego-Los Angeles
1920	102.1 tons-----	31 round trips San Diego-Los Angeles
1922	74.0 tons-----	35 round trips San Diego-Los Angeles
1923	171.9 tons-----	45 round trips San Diego-Los Angeles
1924	351.6 tons-----	95 round trips San Diego-Los Angeles

NOTE—Only ten to twenty per cent of the above tonnage was crated.

Applicant to take care of this business acquired furniture pads, dollies, light low trucks, and some enclosed equipment specially designed

for the movement of this class of goods and such facilities in conjunction with employees trained in furniture handling, enabled them to render a careful and dependable service.

The assumption that the service rendered by applicant was satisfactory can not be questioned as the record shows that to obtain and retain this business they were in competition with other carriers. Three manufacturing firms shipped office, store and house equipment, and furniture to Los Angeles via applicant's trucks. One firm shipped uncrated show cases. These firms preferred applicant's service and members of the firms so testified.

Milo W. Bekins, Floyd R. Bekins, Reed J. Bekins and R. M. Bekins Holt, partners in business under the name of Bekins Fireproof Storage, petitioners in Application No. 9993, have been engaged in the business of storing, shipping, packing and moving of household goods and furniture for the past thirty years. Long distance transportation by truck was inaugurated about 1910. Warehouses are maintained at San Francisco, Oakland, Fresno and Los Angeles. During the past year about 700 cars of household goods were received by applicant at Los Angeles, 25 per cent of which were hauled direct from the cars to final destination. Testimony and an exhibit show a demand for the movement of household goods from and to Los Angeles. Applicants have advertised their service extensively and their financial standing, equipment and facilities appear ample to continue these operations and add thereto as required. A more detailed account of the assets, equipment and finances of Bekins Fireproof Storage may be had by reference to this Commission's Decisions No. 12980 and No. 13775 (decided January 3d and July 3d, 1924, respectively), wherein this applicant was granted certificates for movement of the same commodities as authority is herein applied for.

By the consolidation of the operative rights obtained in accordance with the foregoing decisions of this Commission with the rights now sought and the publication of through rates, the cost of one unloading and loading would be obviated at a distinct saving to the shipper and in addition would be more satisfactory, due to less handling of the goods and possible consequent damage.

Milo W. Bekins, H. M. Burgeson, F. L. Allen, Judson W. Davis and J. R. Zimmerman, copartners, but acting for Bekins Fireproof Storage, Wilshire Fireproof Storage Company, California Fireproof Storage Company, Lyon Fireproof Storage Company and City Transfer and Storage Company, respectively, desire to engage in the transportation of household goods from Los Angeles to San Diego and intermediate points as set out in Application No. 10022. These different companies are now engaged in storage, transportation and moving of household goods.

Should this application be granted, it is proposed to form a \$100,000 corporation, to be known as Southern Van Lines, and engage in transportation of household goods on regular schedules with additional service as required. Offices would be established at both of the proposed terminals. Application would also be filed with this Commission to transfer the certificate held by the copartners to the new company.

The testimony offered in Application No. 9933 was by stipulation, in so far as applicable, to be considered as given for Application No. 10022. In Application No. 9993, the exhibit filed, showed four trips from Los Angeles and vicinity to San Diego for October, November and December, 1924. The record shows that about 13,200 pounds were moved and without any difficulty. It would appear that present applicants have a desire to engage in a business that may be more of a convenience to themselves than to the public, in the hope that a business may be thereby developed, rather than to meet a present necessity. Applicants herein have made no showing in this proceeding that public convenience and necessity exists for the proposed service to an extent that would justify the issuance of a certificate.

California Highway Express, petitioner in Application No. 10208, is now operating a motor freight service over routes heretofore authorized by this Commission. In Decision No. 10063, decided February 8, 1922, this Commission granted a certificate to California Highway Express over the San Joaquin Valley route.

* * * for the transportation of household and office furniture and equipment, baggage and personal effects and household goods (including pianos) between Los Angeles and San Francisco and the following intermediate points: Manteca, Modesto, Turlock, Livingston, Atwater, Merced, Athlone, Chowchilla, Madera, Herndon, Fresno, Fowler, Selma, Kingsburg, Traver, Goshen Junction, Tulare, Tipton, Pixley, Delano, McFarland, Famosa, Bakersfield, Lebec, Saugus, Newhall, San Fernando, Tracy, Livermore, Hayward and Oakland; Also all territory within twenty-five miles of the main highway passing through the above mentioned communities excepting, however, that authority is not hereby granted for the handling of business locally as between communities situated in the territory between San Francisco and Manteca or between Los Angeles and Bakersfield, provided further—and stipulated—no shipments will be handled between Los Angeles and Fresno and points intermediate thereto excepting that such shipments consist of used household furniture (which shall include pianos and musical instruments) which are shipped from owner to owner, are not intended for sale or trade, and when such shipments are not crated, boxed or wrapped. Origin and destination of stipulated shipments to be at residences only or to or from residences with the point of origin or destination as a warehouse or storage point in which shipments have been or are to be stored.

In Decision No. 11291, decided November 29, 1922, California Highway Express was granted a certificate authorizing the transportation of commodities as in Decision No. 10063 set out, over the coast route between Los Angeles and San Francisco, together with the territory included within five miles on either side of the main highway with the following exceptions and limitations: No through service between Los Angeles and San Francisco; no rendering of service from Los Angeles to Santa Barbara and intermediate points including Santa Barbara;

no local service between San Miguel and Orcutt and intermediate and adjacent territory, and no local service between San Francisco and San Jose and intermediate and adjacent territory including San Jose.

In the present application removal of the restriction excluding through service to San Francisco via the coast route is asked and the inclusion of Oakland in the proposed through service. Further additions to its present operative right is asked by routes, with 25-mile territory inclusion on either side of highway traveled, as follows:

(1) Los Angeles to Bakersfield, (2) Bakersfield to Fresno, via Tipton, (3) Bakersfield to Fresno, via Porterville, (4) Los Angeles to Ventura, via Calabasas, (5) Los Angeles to Ventura, via Santa Susana, (6) Los Angeles to Ventura, via Santa Paula, (7) Ventura to Las Cruces, (8) Las Cruces to Santa Maria, via Los Alamos, (9) Las Cruces to Santa Maria, via Lompoc and (10) Santa Maria to Paso Robles.

A certificate is also desired authorizing the transportation of household goods, etc., over routes (11) Bakersfield to San Luis Obispo, (12) Paso Robles to Bakersfield, via Lost Hills, (13) Paso Robles to Visalia, via Cholame and 57 routes (Routes 14 to 69, inclusive), in Los Angeles and vicinity, which in general extend to the state boundary on the south and east. All these routes include 25 miles on each side of the proposed routing.

It is further desired to unite all present operative rights with the ones herein sought, but the present rate structure is to continue in full force and effect.

Supporting this application Mr. Chester A. Nelson, president of the company, testified as to the demand for the extension of service to and from the points as appearing in the application.

Through service on the coast route from Los Angeles to San Francisco would be an aid to the applicant in the loading and dispatching of its trucks and also place it on a parity with Bekins Fireproof Storage who now have a through operative right, Los Angeles to San Francisco over the coast route. This firm favored the request of applicant for through service.

No evidence was presented that would justify changes in the order granting certificates to this company over the valley and coast routes as set out in the decisions previously quoted with respect to Fresno, Bakersfield and Los Angeles demands or San Miguel, Orcutt, Santa Barbara and Los Angeles. It is to be noted that a portion of the order in Decision No. 10063 was the result of a stipulation entered into by applicant at the hearing and no public necessity appears to warrant its abrogation.

Requests for service have been made for movement from Bakersfield to San Luis Obispo and Paso Robles to Visalia via two routes. These

requests are in greatest volume during the summer months when people are moving to the coast. To move goods at present between these points applicant must transport them to the southern terminal and thence along the coast route to destination. This method places an undue burden of cost on the shipper with the result that generally unauthorized carriers get the business going direct from its point of origin to destination.

On direct examination as to the demand for service along the different routes set out in the application the answers were "practically daily," "about one a week," "not so frequent," "have had calls," "a number of calls," or "one or two a year."

Mr. Nelson stated that a number of warehousemen were stockholders in his company and that they desired to extend operative rights so that shipments could be made direct. Two stores in San Francisco occasionally shipped to Los Angeles and vicinity and they desired that their shipments be carried through to destination without change.

After careful consideration of the testimony, I am not convinced that applicant is sufficiently informed as to the needs and demands for service, as proposed in the southern part of the state. Mr. Nelson testified it would take 25 to 50 pieces of equipment, in addition to the seven now owned, to serve the extended area asked for, but details as to the financing were not furnished and it might appear that some portions of the application have a speculative aspect.

Security Van and Storage Company, petitioners in Application No. 10481, have been engaged for a number of years in the hauling, moving and storage business. The company was incorporated March 11, 1924. Mr. M. W. Zerboni, vice president and general manager of the corporation, who has been engaged in this business practically all his life in and in the vicinity of the Santa Monica Bay district, which includes the cities of Santa Monica, Ocean Park and Venice, testified that the company has been doing long distance hauling for some time in truck-load lots. Equipment consists of two 3-ton, and one 1-ton trucks. Additional units have been rented as required.

Machinery, seed, lumber and supplies have been hauled to the Malibu ranch, owned by Marblehead Land and Water Company, about 25 miles north and along the coast from Santa Monica. When a brick plant that is now being constructed is in operation, his company hopes to get the contract for the hauling of the brick to market. Many of the shipments for this company originate at Los Angeles and as the nearest available rail point is Santa Monica, 25 miles from destination, truck shipment is the most convenient and economical.

Applicant has also hauled aeroplanes and accessories for the Douglas Plane Company of Santa Monica, to San Diego, North Island and San Pedro. These shipments, which are sometimes uncatered, require care-

ful handling and from concurring testimony of consignor, the service is desired and in the past has been satisfactory. Consignor testified that difficulty had been experienced in obtaining freight cars from the rail carriers for the short hauls including San Diego, but no complaint was made or difficulty experienced where cars were required for the longer hauls. These shipments are bulky and special motor truck equipment is used in its handling. In the last two years 51 loads of this character have been hauled. Occasional loads are delivered to San Pedro for water shipment. It appears that this business will continue to need motor truck transportation.

In a seven-months period ending February 4, 1924, applicant reports 82 truck loads hauled, of which 45 loads consisted of furniture, household goods, personal effects, etc., 25 loads of lumber, brick, tile, pipe and 12 loads of miscellaneous items. All but twelve of these loads had their origin or destination in the Santa Monica Bay district and of the twelve, five were from or to Los Angeles. Fifty per cent of the household goods movement had their origin or destination in the Santa Monica Bay district, the other terminal being within a 25-mile zone of Los Angeles. Loads were shown to have been handled between Santa Monica Bay district and San Diego, Riverside, San Bernardino, Bakersfield and Santa Barbara. Miscellaneous shipments included movement of a street and concrete contractor's outfit from job to job as required.

Applicant does not protest the granting of certificates to other carriers, but does desire to continue in operation as it has done in the past. No regular schedules are contemplated, the service being on a call or demand basis.

Coast Truck Line, petitioner in Application No. 10817, has been operating a motor truck freight service from San Diego to Los Angeles, and intermediate points between San Diego and Oceanside, Escondido to Los Angeles and intermediate points between Escondido and Oceanside, and San Diego to Riverside and intermediate points except that no local service between Temecula and Elsinore is given.

Daily service is now rendered between Escondido and Los Angeles. Seven trucks are operated each way daily between San Diego and Los Angeles. The route from San Diego to Riverside receives service every other day. Of all tonnage transported 70 per cent is southbound and 30 per cent northbound. Applicant appears to have at hand and available sufficient equipment to take care of its business and recently has acquired vans, pads and other equipment to more efficiently handle household goods. As stated in the application, the pick up and delivery zones in the terminal cities were desired increased together with 25 miles on either side of the highway, also to permit the service to the intermediate points between Oceanside and Los Angeles.

In support of the application there were cited movements of furniture for a couple of firms which appeared to have been given satisfactorily. It was admitted, however, that very few requests for service have been made from Los Angeles to intermediate points between Oceanside and Los Angeles and none from San Diego. Calls have been made for service from or to the 25-mile zone at Los Angeles and Riverside.

Applicant has had certificate authority to transport household goods, in addition to general freight, for some time. Subsequent to the purchase of vans it appears that more inquiries have been received for the movement of household goods than previously, though there is no showing that the operative rights heretofore obtained as pertaining to service from and to intermediate points need modification, but service to an increased area or zone at the terminals together with lateral extensions along routes will more adequately meet the public need as to movement of these commodities.

The transportation of furniture, household goods and personal effects is somewhat different than the handling of general freight in that the former items are of a more personal nature and even sentimental consideration and usually when transported are at the times convenient or desirable to the shipper. Fixed time schedules are not in all cases advantageous for this class of movement. Motor truck shipment reduces the number of handlings with a consequent lessening of damage to the goods and as crating is not necessary, savings thereby accrue to the shipper.

Protestant rail carrier does not accept uncrated household goods for transportation and American Railway Express Company does not protest applications herein in so far as they relate to the movement of furniture and household goods. For a shipper to avail himself of rail transportation for these commodities the expense and inconvenience of crating, uncrating and a haul at each end must be incurred in addition to the freight charges. This method of transportation is not as expeditious as by motor truck. The latter form of service is desired by many as the shipper is thereby relieved of much of the inconvenience of moving.

It is apparent that transportation of uncrated furniture and household goods is a specialized business and some of the protestants, while their certificates have permitted them to handle these commodities, have made no appreciable efforts to obtain such business. Further discussion of the protests made is not deemed necessary as all matters herein presented have been duly considered.

In Decision No. 12980, decided January 3, 1924, this Commission stated its interpretation of the irregular or on call operation of the

household goods and furniture movements by Bekins Fireproof Storage, then under consideration in Application No. 9181.

The Commission was of the opinion that though previously these operations had been so irregular as not to come within the jurisdiction of the Commission they then had developed to such an extent that the Commission was justified in assuming jurisdiction and hence a certificate of public convenience and necessity was issued upon the showing made.

In the present proceedings City Transfer and Storage Company, Ellis Brown and P. M. Follensbee (Triangle Transfer and Storage Company), Bekins Fireproof Storage, and Security Van and Storage Company were shown to have been engaged in the transportation of furniture, household goods and personal effects for a number of years past, and previous to May 1, 1917, the effective date of the Auto Stage and Truck Transportation Act. It appears that these applicants took steps from time to time to comply with the law and had called upon or communicated with the Commission with such end in view. After the issuance of Decision No. 12980, when they were advised that their operations came within the jurisdiction of the Commission, applications were filed requesting the issuance of certificates of public convenience and necessity so that operations might be continued in a lawful manner.

The Commission has from time to time expressed its views concerning illegal operation of motor carriers and if I were of the opinion that these applicants had so operated, I would recommend that their respective applications be denied forthwith. On the contrary it appears that these operations have been carried on in good faith and in an effort to comply with and conform to the constituted laws and regulations.

The tariffs proposed by the applicants are, in general, founded on past practices and costs of operation and in certain respects are not in entire accord. It is not to be expected that they would be, as the service rendered in each instance is not fully comparable. Applicants to whom certificates will be issued will be directed to file tariffs, rules and regulations as attached to their applications with such corrections and amendments as the record shows.

After full and careful consideration of all the testimony and exhibits as presented in these proceedings, I am of the opinion, and hereby find as a fact, that the public convenience and necessity require the granting and denial of such certificates as are hereinafter set forth in the accompanying order, and not otherwise.

I submit the following form of order:

ORDER.

Public hearings having been held on the foregoing entitled proceedings, briefs having been filed, the matters having been duly submitted,

and the Commission being now fully advised, and basing its order on the statements and findings of fact as set forth in the opinion which precedes this order:

The Railroad Commission hereby declares that public convenience and necessity do not require the operation by Milo W. Bekins, H. M. Burgeson, F. L. Allen, Judson W. Davis and J. R. Zimmerman of an automotive truck line for the transportation of household goods between Los Angeles and San Diego and intermediate points; and

It is hereby ordered, that Application No. 10022 be and the same hereby is denied.

The Railroad Commission hereby further declares that public convenience and necessity require the operation by City Transfer and Storage Company, a corporation, of an automotive truck line as a common carrier of new and second-hand office furniture and equipment, house furniture, household goods, pianos, musical instruments, trunks and personal effects (as a part and in connection with household goods), all crated and uncrated, in truckload lots, over four routes, and all intermediate points in each route, as herein set out:

1. Long Beach to Santa Barbara, via Ventura,
2. Long Beach to Bakersfield, via Lebec,
3. Long Beach to San Bernardino and Mecca, via El Monte or Santa Ana Canyon,
4. Long Beach to San Diego, via Santa Ana,

and including a distance of 25 miles, on either side of the highway on routes 1 to 4, inclusive; provided that all movements shall be from residence to residence, residence to warehouse or warehouse to warehouse, and that each movement must, in every instance, have its origin or destination in Long Beach as one terminal.

The Railroad Commission hereby further declares that public convenience and necessity require the operation by Ellis Brown and P. M. Follensbee, doing business under the fictitious name of Triangle Transfer and Storage Company, of an automotive truck line as a common carrier of new and second-hand, crated or uncrated, office, store and house furniture, showcases, household goods, pianos, musical instruments, trunks, baggage and personal effects (as a part and in connection with household goods), between San Diego and Los Angeles via the coast route and to or from intermediate points to, from or to either San Diego or Los Angeles, and for a distance of 30 miles on either side of the highway comprising such route.

The Railroad Commission hereby further declares that public convenience and necessity require the operation by Milo W. Bekins, Floyd R. Bekins, Reed J. Bekins and R. M. Bekins Holt, partners in business, under the fictitious name of Bekins Fireproof Storage, of an automotive

truck line as a common carrier of office furniture and equipment, house furniture, household goods, pianos, musical instruments and trunks and personal effects (as a part and in connection with household goods and excluding sample cases, commercial trunks or baggage); over the following routes and all intermediate points on each route and including a distance of 30 miles on either side of the highway comprising the main route and 30 miles beyond terminal points as follows:

1. Los Angeles to San Fernando, via Glendale,
2. Los Angeles to Pasadena,
3. Los Angeles to San Pedro and Long Beach,
4. Los Angeles to Redondo, Hermosa and Manhattan Beach,
5. Los Angeles to Venice, Ocean Park and Santa Monica,
6. Los Angeles to Banning,
7. Los Angeles to San Diego,

provided that the commodities herein authorized transported are not intended for resale; also that public convenience and necessity requires that the operative rights previously granted in Decisions Nos. 12980 and 13775 (Vols. 24 and 25, Opinions and Orders of the Railroad Commission of California), be joined and consolidated with the operative rights herein granted, permitting through service from point to point over the regular routes as defined, and that through rates be filed covering said service.

The Railroad Commission hereby further declares that public convenience and necessity require the operation by California Highway Express, a corporation, of an automotive truck line as a common carrier of household, office and store furniture, fixtures and equipment, household goods, pianos, trunks, baggage and personal effects between Bakersfield and San Luis Obispo and intermediate points; between Paso Robles and Bakersfield, via Lost Hills and intermediate points; between Paso Robles and Visalia, via Cholame, and intermediate points; and for a distance of 25 miles on either side of the main highway on the routes as hereinabove stated; also that public convenience and necessity require that Decision No. 11291 (Vol. 22, Opinions and Orders of the Railroad Commission of California) be modified so as to permit California Highway Express to render through service between Los Angeles and San Francisco and for a distance of 25 miles on each side of the highway comprising the coast route from Los Angeles to San Francisco, over such portions of route as service is permitted in said Decision No. 11291; also that public convenience and necessity require the joining and consolidating of the operative rights over the coast route, as granted in Decision No. 11291 and the present modification, with the operative rights herein granted between Bakersfield and San Luis Obispo, between Paso Robles and Bakersfield via Lost Hills,

between Paso Robles and Visalia, via Cholame, and the operative rights on the valley route as contained in Decision No. 10063 with the operative rights herein granted between Bakersfield and San Luis Obispo, between Paso Robles and Bakersfield via Lost Hills, and between Paso Robles and Visalia, via Cholame.

The Railroad Commission hereby further declares that public convenience and necessity require the operation by Security Van and Storage Company, Inc., of an automotive truck line as a common carrier of used office furniture and equipment; used household furniture and household goods, used pianos, trunks and personal effects (as a part of and in connection with household goods) aeroplanes and aeroplane parts, lumber, lime, cement, concrete forms, street, road and sidewalk contractors' equipment, tools and supplies, and ranch supplies to Malibu ranch, in truckload lots, over the public roads and highways from or to Santa Monica Bay district (which includes the cities of Santa Monica, Sawtelle, Ocean Park and Venice) to all points within 125 miles of said bay district, provided that service on the south shall include San Diego and North Island and not beyond, and north on the coast and valley routes shall include Santa Barbara and Bakersfield, respectively, and not beyond; and that each movement shall have its origin or destination in Santa Monica Bay district, except that origin of supplies for Malibu ranch is not confined to said Santa Monica Bay district.

The Railroad Commission hereby further declares that public convenience and necessity require that the operative rights in so far as same relate to transportation of household goods and furniture heretofore granted Coast Truck Line be extended at the San Diego terminal to include a zone of ten (10) miles radius from Sixth and K streets, San Diego; at Escondido terminal to include a zone of five (5) miles radius from the terminal depot; at Riverside terminal to include a zone of twenty-five (25) miles radius from the terminal depot; at Los Angeles to include a zone of twenty-five (25) miles radius from the terminal at 780 Crocker street; together with an area of twenty-five (25) miles distant on either side of the highway on the routes heretofore granted; provided, however, that no movements shall occur from point to point within a terminal zone where same has not heretofore been authorized.

It is hereby ordered, that certificates of public convenience and necessity be and the same hereby are granted, in conformity to the foregoing declarations and not otherwise, to City Transfer and Storage Company; Ellis Brown and P. M. Follensbee (Triangle Transfer and Storage Company); Milo W. Bekins, Floyd R. Bekins, Reed J. Bekins, and R. M. Bekins Holt (Bekins Fireproof Storage); California Highway Express,

a corporation; Security Van and Storage Company, Inc.; and Coast Truck Line; subject to the following conditions:

1. Applicants shall file their written acceptances of the certificates herein granted within a period not to exceed ten (10) days from the date hereof; shall file, in duplicate, tariffs of rates, time schedules, rules and regulations within a period of not to exceed twenty (20) days from date hereof, such tariffs of rates, time schedules, rules and regulations to be identical with those attached to the applications or as amended, together with revisions as agreed upon at the hearings; and shall commence operation of service on or before thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be sold, leased, transferred, assigned, nor service thereunder discontinued unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance of service has first been secured.

3. No vehicle may be operated by applicants herein under the authority hereby conferred, unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of June, 1925.

DECISION No. 15086.

IN THE MATTER OF THE APPLICATION OF COASTSIDE TRANSPORTATION COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING A REVISION OF CERTAIN RULES AND REGULATIONS AND THE INCREASING OF PASSENGER FARES AND FREIGHT AND EXPRESS RATES.

Application No. 10648.

Decided June 22, 1925.

RATES—AUTO CARRIER.—Certain increases authorized.

Encell and Miller, for Applicant.

L. H. Wolters, for Golden State Milk Company.

SQUIRES, Commissioner.

OPINION.

This is an application of the Coastside Transportation Company, a corporation, for an order granting authority under the provisions of

chapter 213, Statutes 1917, to readjust passenger fares and freight and express rates to cover transportation service between the points served.

A public hearing was held May 7, 1925, and all interested parties having been given an opportunity to be heard, and the case having been duly submitted, is now ready for an opinion and order.

The applicant operates an automobile passenger, freight and express service between San Francisco and Pescadero via the so-called coast route, and between San Francisco and Pescadero via San Mateo over the route formerly operated by the Red Star Stage Line. These operative rights were secured under different authorities in Applications Nos. 8252, 8949, 8963 and 9320. The petition alleges that the present fares and rates are noncompensatory and that the proposed changes, if allowed, will put into effect just and reasonable fares and rates, provide sufficient revenue to meet operating expenses, depreciation, taxes and other fixed charges and net a reasonable return upon the value of the property devoted to the public service. The proposed passenger fares are increases of approximately $26\frac{1}{2}$ per cent and the proposed freight and express rates approximately $17\frac{1}{2}$ per cent.

Notwithstanding the fact that notices were sent to interested shippers and receivers of freight and to the chambers of commerce in the important centers affected, no one appeared to oppose granting the application. Milk and cream shippers suggested minor changes in the freight and express rates covering the transportation of milk and cream, which changes were agreed to by applicant in its amended exhibit.

Attached to the application are nine exhibits setting forth in full, income and expense accounts, revenues under the present rates, those estimated under the proposed adjustments, assets and liabilities and the value of the property devoted to the service.

It will not be necessary to enter into all the details of applicant's financial difficulties. At the end of the calendar year, December 31, 1924, there was a deficit from operations of \$14,190.33; on March 31, 1925, the deficit had increased to \$22,178.02. For the three months period, January, February and March, 1925, the total operating revenues were \$11,770.29, while the operating expenses were \$14,418.11, a loss from operations before charging depreciation of \$2,640.82. Accrued depreciation amounted to \$5,505.06; other minor items of miscellaneous income and expense made a total actual loss, including depreciation, for the three months' period referred to of \$7,987.69. It is thus clear that at the present time applicant is not even securing sufficient revenue to pay actual out-of-pocket operating expenses, to say nothing of depreciation or return upon investment. The books of applicant on March 31, 1925, showed a total claimed value for plant and equipment of \$152,193.32. With the exception of a franchise cost item of \$26,940.51 the amount is made up of tangible properties used

in rendering the public utility service. The Commission has made no actual appraisalment of the assets of the company, but after the elimination of the claimed franchise costs it is fair to assume that the property used and useful in the public service has a value of approximately \$125,000. The accounts and books of applicant were checked by the Commission's department of finance and accounts, and while some minor changes were found necessary, the net results were not sufficient to materially affect the exhibits and the testimony submitted at the hearing.

The total business transacted during the first three months of 1925, as compared with a like period of 1924, shows a falling off in gross revenue of 20 per cent. As illustrative of the freight movement, it may be stated that for the first three months of 1924 the revenue totaled \$7,945.78 and for the same period of 1925 it was only \$5,799.39.

The territory traversed by applicant is devoted to intensive truck farming and at the present time the farm-owned and other uncontrolled auto freight trucks are handling the tonnage to a greater or less extent.

I am somewhat doubtful if the increases in rates will result in any material advantage to applicant; indeed, it may develop that they will result in driving more tonnage to privately-owned vehicles; however, upon all the facts of record, it is my conclusion that the application should be granted and the carrier given an opportunity to test the rates proposed.

Therefore I recommend that an order be entered authorizing publication of the proposed passenger fares and freight and express rates, as set forth in exhibits D, E, F, G, H and I, attached to and made a part of the application.

Applicant should be required to submit to the Commission on or before the twentieth day of each month, for a period of not less than six months, beginning with the first month after the increased rates take effect, a statement showing the earnings under the present and the increased rates and fares, also the revenues and expenses. Information as to the revenues and expenses should be compiled in conformity with the Commission's order effective January 1, 1922, uniform classification of accounts.

ORDER.

This application having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had and basing this order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that Coastside Transportation Company, a corporation, be and it is hereby authorized to establish within twenty (20)

days from the date hereof the passenger fares, and freight and express rates as set forth in exhibits D, E, F, G, H and I, attached to and made a part of the application.

It is hereby further ordered, that the Coastside Transportation Company, a corporation, file with this Commission on or before the twentieth (20th) day of each month, for a period of six (6) months, beginning with the first day of the month after the new rates become effective, a statement showing the revenues and the expenses from its operations of passenger, freight and express service between San Francisco and Pescadero, via the coast route, and between San Francisco and Pescadero via San Mateo over the route formerly operated by the Red Star Stage Line. The revenues and expenses should be compiled in conformity with the Commission's order, effective January 1, 1922, uniform classification of accounts.

Dated at San Francisco, California, this twenty-second day of June, 1925.

DECISION No. 15092.

IN THE MATTER OF THE APPLICATION OF ESCALON WATER AND LIGHT COMPANY FOR A HEARING FOR THE PURPOSE OF ADJUSTING AND REVISING RATES FOR SERVICE TO THE WATER CONSUMERS OF ESCALON, SAN JOAQUIN COUNTY, CALIFORNIA.

Application No. 10961.

Decided June 22, 1925.

RATES—WATER UTILITY—FACILITIES OF SERVICE.—Subject to making certain improvements in the service, applicant is granted authority to place in effect increased rates, calculated to bring in a fair return. Utility is directed to acquire all facilities of service.

P. S. Thornton, for Applicant.

Walter L. Hall, for certain taxpayers.

SEAVEY, *Commissioner*.

OPINION.

The Escalon Water and Light Company, a corporation, is a public utility engaged in the business of distributing and selling water for domestic and commercial purposes in and in the vicinity of Escalon, San Joaquin County. The application in this proceeding alleges in effect that in many instances the present schedule of rates has become obsolete and does not properly and justly provide for existing operating conditions, and that said rates now in effect in many cases have never been approved by the Commission. Applicant therefore requests a general readjustment of its rate schedule.

A public hearing in this matter was held at Escalon, after due notice thereof had been given so that all interested parties might appear and be heard.

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The rate schedule now in effect, was established by this utility shortly after its incorporation in August, 1911, and has never been fixed by formal order of this Commission. This rate schedule in part, is as follows:

Monthly Flat Rates.

Six-room flat or less, with bath or toilet.....	per month	\$1 50
Each additional bath or toilet.....	per month	50
Hotel, from one to ten rooms.....	per month	3 50
Each additional room.....	per month	10
General store or business house, with lavatory.....	per month	1 50
Barber shop.....	per month	1 00
Each additional chair.....	per month	50
Blacksmith shop.....	per month	1 50
For irrigation of a 25-foot lot.....	per month	50
Etc.		

Monthly Meter Rates.

Minimum, for 1000 gallons.....	per month	\$1 50
Between 1000 and 5000 gallons—		
If paid within 5 days after presentation of bill.....	per 1000 gallons	40
If not paid within 5 days after presentation of bill.....	per 1000 gallons	45
Between 5000 and 10,000 gallons—		
If paid within 5 days.....	per 1000 gallons	35
If not paid within 5 days.....	per 1000 gallons	40
Between 10,000 and 50,000 gallons—		
If paid within 5 days.....	per 1000 gallons	25
If not paid within 5 days.....	per 1000 gallons	30
Between 50,000 and 150,000 gallons—		
If paid within 5 days.....	per 1000 gallons	15
If not paid within 5 days.....	per 1000 gallons	20
Between 150,000 and 500,000 gallons—		
If paid within 5 days.....	per 1000 gallons	10
If not paid within 5 days.....	per 1000 gallons	12½

Water is obtained from a well approximately 185 feet deep, and is pumped by a Byron Jackson deep-well turbine, which delivers the water into an overhead tank of 60,000 gallons capacity, from which it is distributed through approximately 14,000 feet of mains, all of which is O. D. casing and varies from two to six inches in diameter. There are at present about 170 active service connections on the system.

Applicant submitted testimony to the effect that the books and records of the company showed a total investment of \$14,016 as of December 31, 1924. This amount does not include the entire cost of certain pipe line extensions, a portion of which costs were advanced by consumers in aid of construction. Applicant further testified that the maintenance and operating expenses for the year 1924 amounted to \$2,489. However, the evidence shows that this sum included depreciation computed by the straight-line method, interest upon borrowed money, and certain other minor items not properly chargeable to operating costs.

A report was presented by M. I. Reed, one of the Commission's hydraulic engineers, in which the estimated original cost of the operative properties of the system was found to be \$16,841 and a depreciation annuity of \$328, computed by the 5 per cent sinking fund method. In this report an analysis of the costs of operation and maintenance for the last two years showed that these expenses, exclusive of depreciation, were \$1,548 for 1923 and \$1,575 for 1924. The operating expenses for the immediate future were estimated to be \$1,650, the slight increase over the figures set out above for 1923 and 1924 being recommended to properly provide for repair and maintenance costs, which appeared to be abnormally low for the preceding two years.

The revenues for the last three years are as follows: 1922, \$3,360; 1923, \$3,342; 1924, \$3,146. The foregoing figures indicate that this company has for the past few years enjoyed a fair return upon its investment over and above the costs of operation, maintenance and depreciation. While the evidence shows this company to be in a prosperous condition financially, yet the present rate schedule and certain practices of applicant have resulted in considerable discrimination in many instances and it is the desire of the company as well as the consumers that these differences be removed as far as possible by a general readjustment of the rates for the various classes of service and the adoption of a more suitable set of rules and regulations governing the relations between the company and the consumers. In this connection it may well be pointed out that a certain amount of discrimination can not be entirely avoided under any system of flat rate charges and for this reason the installation of meters is recommended for any classes of service which can not equitably be provided for under the schedule of flat rates herein authorized.

The testimony presented in connection with this matter disclosed the fact that the company does not own any of the service connections through which water is delivered from the mains to the premises served. The practice has been to require the consumers to install at their own expense all pipe connections from the mains to the consumers' property. Such requirement is contrary to the public utility practice as established by the Commission and as set out in Decision No. 2879, dated the fifth day of November, 1915, Rule 13 of which reads as follows:

A water, gas, electric or telephone utility which operates upon, under or along any public street, highway, alley, lane or road shall at its own expense install a service connection of normal size to the property line or curb line of property abutting upon said public street, highway, alley, lane or road or to such point on the consumer's premises as the utility may agree upon. The term "service connection," as herein used, shall include water and gas pipes, electric and telephone wires, water, gas and electric meters, electric transformers, gas regulators, telephone instruments and appurtenances. Subject to review by the Railroad Commission, a water, gas, electric or telephone utility may refuse to make a service connection if it believes that the service will not be used in the reasonably immediate future.

Hereafter applicant shall install and maintain at its own expense all service connections in strict conformity with the above rule and shall at once take measures to acquire by purchase or otherwise all active service connections which are not now owned by it. In order that too great a burden be not placed upon applicant at one time, a reasonable period should be allowed in which to complete the acquisition of these services. In this instance it appears that twelve months would be a reasonable time.

The company has at various times in the past arbitrarily altered and changed its rates without proper authority and in certain cases involving the extension of water mains has furnished the necessary pipe and materials but has required the consumer to install the pipe line at his own expense, regardless of the length of such extension. This is not in keeping with the standard practice as established by the Commission. These various acts and methods of operation have very probably been indulged in through lack of proper understanding of the regulations and requirements of the Railroad Commission regarding public utility operation and management. The company, however, has expressed its desire and willingness to conform to the practices as authorized by this Commission, which it is believed will go far toward the elimination of complaints by the consumers against this utility.

The revision of the rules and regulations for service should be undertaken at once and the utmost care should be used in the interpretation and application of such rules in order to avoid any possibility of unfair discrimination in the future. Applicant should also bear in mind that the Public Utilities Act requires that no existing rate for a public utility service may lawfully be increased without proper authority from the Railroad Commission.

The schedule of rates set out in the order herein will provide more reasonably for the present conditions of operation and will at the same time more equitably spread the rates over the various classes of service in accordance with the use of water.

The following form of order is submitted:

ORDER.

Escalon Water and Light Company, a corporation, having applied to the Railroad Commission for an adjustment of the rates now charged for water service, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter:

It is hereby found as a fact that the rates now charged by Escalon Water and Light Company, a corporation, for water delivered to its consumers, are unjust and unreasonable in so far as they differ from

the rates herein established, and that the rates herein established are just and reasonable rates for such service.

Basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Escalon Water and Light Company, a corporation, be and the same is hereby directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged consumers in the vicinity of Escalon, San Joaquin County, for all water delivered subsequent to July 1, 1925:

Monthly Flat Rates.

Six-room house or flat, with bath and toilet.....	\$1 50
Each additional toilet.....	25
Each additional bath.....	25
Hotel or lodging house of ten rooms or less.....	3 50
Each additional room.....	25
General store or business house, with lavatory.....	1 50
Barber shop with not more than six chairs.....	1 50
For each additional chair.....	25
Blacksmith shops, public halls and lumber yards.....	1 50
Meat markets.....	1 50
Schools.....	10 00
Bakeries.....	1 50
Confectionery stores and ice cream parlors.....	2 00
Doctor's or dental office.....	1 00
Drug store or printing office.....	1 50
Cows and horses, each.....	15
Offices with water service.....	1 00
Planing mills.....	1 00
Restaurants and chop houses.....	2 00
Hardware store.....	1 50
Harness shop.....	1 50
Garage.....	2 00
Churches.....	1 00
Service stations.....	2 00
Pool hall.....	1 50
Pool hall with soda fountain and ice cream parlor.....	2 00
Cement works.....	4 00
Plumbing shop.....	1 00
Court room.....	1 00
Santa Fe Railway.....	17 50
Tidewater and Southern Railway.....	15 00

Seasonal Rates.

Fire hydrants, per year, each.....	\$2 50
Packing houses, per season.....	7 50
Ball team, per year.....	6 00
Club house, per year.....	14 00

Monthly Irrigation Rates.

Per square yard of surface actually irrigated, during months when water is used.....	\$0 005
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Meter Rates.

Minimum monthly charges—

$\frac{1}{8}$ -inch meter.....	\$1 25
$\frac{1}{4}$ -inch meter.....	1 75
1-inch meter.....	2 50
1 $\frac{1}{2}$ -inch meter.....	3 75
2-inch meter.....	6 00
3-inch meter.....	10 00

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the following meter rates:

Monthly meter rates—

From 0 to 500 cubic feet, per 100 cubic feet-----	\$0 25
From 500 to 1,500 cubic feet, per 100 cubic feet-----	22½
From 1,500 to 3,000 cubic feet, per 100 cubic feet-----	20
From 3,000 to 10,000 cubic feet, per 100 cubic feet-----	15
Over 10,000 cubic feet, per 100 cubic feet-----	12

It is hereby further ordered, that Escalon Water and Light Company, a corporation, be and the same is hereby authorized and directed to file with this Commission within thirty (30) days from the date of this order, revised rules and regulations governing relations with its consumers, said rules to become effective upon their acceptance by the Commission.

It is hereby further ordered, that Escalon Water and Light Company be and the same is hereby directed to acquire under uniform rules, within a period of twelve months subsequent to the effective date of this order, title and ownership to all active service connections used by said company in delivering water to the premises of its consumers, and is hereby further directed to file with this Commission monthly during the period required, to comply with the order above, written statement showing as of the last day of each month, the number of service connections owned by consumers, the number of service connections acquired by the company during the month and the number of service connections owned by the company.

It is hereby further ordered, that Escalon Water and Light Company be and it is hereby directed to file with this Commission within thirty (30) days after the date of this order, uniform rules under which said Escalon Water and Light Company intends to acquire ownership of the active service connections as ordered above, said rules to become effective upon their approval by this Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of June, 1925.

DECISION No. 15093.

IN THE MATTER OF THE APPLICATION OF THE SAN GERONIMO VALLEY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF FIFTY THOUSAND SHARES OF ITS CAPITAL STOCK.

Application No. 11173.

Decided June 22, 1925.

SECURITIES—STOCK—To ISSUE.—Application granted.*Dunne, Brobeck, Phleger and Harrison*, by *H. H. Phleger*, for Applicant.**BY THE COMMISSION.****OPINION.**

San Geronimo Valley Water Company asks permission to issue and sell at par \$50,000 of its common capital stock and use the proceeds to pay indebtedness and provide itself with funds to construct additions and betterments and for general corporate purposes.

Applicant has an authorized stock issue of \$200,000, divided into 200,000 shares of the par value of \$1 each. Stock in the amount of \$50,000 is now outstanding. Substantially all of the outstanding stock is owned by Lagunitas Development Company.

As of April 30, 1924, applicant reports assets and liabilities as follows:

<i>Assets.</i>	
Plant account -----	\$78,323 95
Accounts receivable (consumers) -----	2,185 89
Accounts receivable (others) -----	9 10
Stock (material on hand) -----	1,560 54
Real estate -----	6,110 00
Cash -----	90 45
Deficit -----	24,791 82
Total -----	\$113,071 75
<i>Liabilities.</i>	
Capital stock -----	\$50,000 00
Bills payable -----	31,695 85
Accounts payable -----	11,866 68
Benicia Shipbuilding Corporation -----	\$136 90
Lagunitas Development Company -----	11,729 78
Customers' deposits -----	7 50
Reserve for depreciation -----	19,501 72
Total -----	\$113,071 75

The \$31,695.85 reported under bills payable consists of a note the issue of which was authorized by the Railroad Commission by Decision No. 14236, dated November 3, 1924. This note was issued to and is held by the Lagunitas Development Company. The accrued and unpaid interest on the note to June 1, 1925, amounts to \$1,098.79. In addition to the note of \$31,695.85 and the accrued and unpaid interest, applicant is indebted to the Lagunitas Development Company in the amount of \$11,729.78 appearing in its balance sheet under accounts payable. The total amount due the Lagunitas Development Company is \$44,524.42. The Development Company has agreed to accept in payment for such debt \$44,525 par value of applicant's common stock.

It is of record that the additional stock of \$5,475 which applicant asks permission to issue will, from time to time, be purchased by the

Lagunitas Development Company at par. The proceeds from sale of such stock will be used to pay indebtedness which applicant may incur to Lagunitas Development Company or will be sold and the proceeds used to pay for additions and betterments or for general corporate purposes.

The financial statement filed by applicant shows that its business has not been conducted at a profit. The authority herein granted to issue stock should not be construed as a finding of a value for applicant's properties, nor as a basis for the increase of rates, nor as a precedent for the issue of additional stock.

ORDER.

San Geronimo Valley Water Company having applied to the Railroad Commission for permission to issue \$50,000 of its common stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and that this application should be granted as herein provided;

It is hereby ordered, that the San Geronimo Valley Water Company be and is hereby authorized to issue and sell on or before December 31, 1925, at not less than par \$50,000 of its common capital stock and use the proceeds obtained from the sale of such stock to pay the indebtedness referred to in this application and to provide itself with moneys necessary to pay the cost of additions and betterments to its properties.

The authority herein granted is subject to further conditions as follows:

1. San Geronimo Valley Water Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this twenty-second day of June, 1925.

DECISION No. 15103.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND THE SALE OF PREFERRED STOCK.

Application No. 11219.

Decided June 25, 1925.

SECURITIES—PREFERRED STOCK—TO ISSUE.—Application to issue 11,250 shares of preferred stock at not less than \$92 per share, granted.

A. E. Peat, for Applicant.

BY THE COMMISSION.

OPINION.

Southern California Gas Company asks permission to issue and sell at not less than \$92 per share 11,250 shares (\$1,125,000 par value) of 6 per cent cumulative preferred stock and use the proceeds for the purposes hereinafter mentioned.

Applicant has an authorized stock issue of \$10,000,000 par value, divided into \$4,000,000 of 6 per cent cumulative preferred and \$6,000,000 of common stock. All of the common stock and \$2,076,000 of the preferred stock is reported outstanding on April 30, 1925. In addition \$549,900 par value of preferred stock has been subscribed for but not issued.

By Decision No. 11493, dated January 12, 1923, in Application No. 8552 (Vol. 22, Opinions and Orders of the Railroad Commission of California, page 888) and by Decision No. 13034, dated January 11, 1924, in Application No. 9661 (Vol. 24, Opinions and Orders of the Railroad Commission of California, page 339), the Commission authorized applicant to issue \$2,000,000 par value of its 6 per cent cumulative preferred stock. As of May 31, 1925, \$1,845,500 of such stock was sold, leaving \$154,500 unsold as of that date. The testimony of Mr. A. E. Peat, treasurer and comptroller for applicant, shows that since May 31, substantially all of the \$154,500 of stock has been sold.

Applicant has submitted statements and testimony showing that since March 18, 1919, it expended \$2,555,749.54 for which its treasury has not been reimbursed by the issue of stock nor will it be reimbursed by the issue of stock for which applicant now holds subscriptions. The money necessary to finance such expenditures was obtained from construction deposits and earnings.

Applicant estimates that its 1925 construction expenditures will amount to \$2,975,000 and that such amount will be expended for the following purposes:

Distribution mains, meters and regulators due to estimated increase in business	\$2,150,000 00
Reinforcements, San Bernardino Valley district systems	35,000 00
Reinforcements, San Fernando Valley district systems	45,000 00
Reinforcements, Downey district systems	10,000 00
Reinforcements, Redondo district systems	40,000 00
Reinforcements, Los Angeles district systems	55,000 00
Leakage work, Los Angeles, San Bernardino and Riverside	150,000 00
Change of pipe lines on account of grading, paving street, present cost, less original cost	150,000 00
Gas works at Los Angeles	250,000 00
New branch offices—Lankershim, Bellflower, El Segundo	30,000 00
Subtotal	\$2,915,000 00
Contingencies and omissions	60,000 00
	<hr/>
	\$2,975,000 00

Applicant asks permission to use not over \$3.50 per share of the proceeds obtained from the sale of the \$1,125,000 of stock to pay expenses incident to the sale of the stock and to use the remainder to reimburse its treasury on account of earnings expended for additions and betterments or to return construction deposits. Through the reimbursement of the company's treasury, applicant will be enabled to carry forward its 1925 construction program.

ORDER.

Southern California Gas Company having applied to the Railroad Commission for permission to issue \$1,125,000 of stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that this application should be granted as herein provided; therefore,

It is hereby ordered, that the Southern California Gas Company be and it is hereby authorized to issue and sell, on or before December 31, 1925, at not less than \$92 per share 11,250 shares (\$1,125,000 par value) of its 6 per cent cumulative preferred stock and use of the proceeds an amount not exceeding \$3.50 per share of stock, said stock sold to pay expenses incident to the sale of said stock and use the remainder of the proceeds together with such portion of the said \$3.50 per share not needed to pay expenses incident to the sale of the stock to reimburse its treasury on account of earnings invested in its properties and pay indebtedness incurred in connection with the construction of the properties referred to in this application, provided that only such expenditures as are property chargeable to fixed capital account under the uniform system of accounts prescribed or adopted by the Commission, may be financed through the issue and sale of said stock.

It is hereby further ordered, that the Southern California Gas Company shall file with the Railroad Commission, reports as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted to issue stock shall become effective upon the date hereof.

Dated at San Francisco, California, this twenty-fifth day of June, 1925.

DECISION No. 15119.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES, SERVICE, RULES, REGULATIONS AND PRACTICES OF THE SOUTHERN PACIFIC COMPANY.

Case No. 2041.

Decided June 29, 1925.

RATES—AUTO FERRY—SAN FRANCISCO BAY—RATE BASE.—The Commission finds the value of the properties used, and properly apportioned to the auto ferry service for rate making purposes, to be \$3,838,735.

SEPARATE SERVICE.—It is found that the company's contention that the auto ferry service is not a service separate and distinct from all of its transbay ferry and electric service, and that rates should be based upon the entire suburban service as a unit, is in direct opposition to the position taken before the California Supreme Court in 1919 when the matter of taxation of vehicular ferries was at issue. Commission holds that there is no mutuality of operations between the vehicular ferry service and its other transbay service, except that pertaining to common ownership.

ADEQUACY OF SERVICE.—It is found that the service is good, but double-apron slips are recommended in place of existing single-apron slips, and fifteen-inch clearance between automobiles on ferries.

SHIPYARD AND MARINE WAYS.—Apportioned value of shipyards and marine ways included in the rate base.

RATE OF RETURN.—Existing rates equivalent to a rate of return of 28.1 per cent upon a rate base of \$3,838,735 found excessive. Rates, calculated to produce a rate of return substantially in excess of the return usually allowed to stabilized public utilities in this state, established.

FREIGHT RATES.—The evidence does not appear to justify the Commission in making a finding as to the reasonableness, or otherwise, of freight rates. Mere comparison of a freight rate with a vehicle rate does not, in itself, measure reasonableness or unreasonableness of either rate.

RESULTS OF OPERATION.—Based upon an estimated operating revenue of \$1,556,775, and operating expense of \$1,067,259, for the ensuing year, a net income of \$428,327, after paying taxes, is estimated.

C. W. Durbrow and E. J. Foulds, for the Southern Pacific Company.

Seth Mann and S. A. Everstine, for the San Francisco Chamber of Commerce.

C. S. Connolly, for Albers Bros. Milling Company.

A. E. Loder, for California State Automobile Association.

George W. Gerhard, for Pacific League of Improvement Clubs and Associations.

D. J. Hall, City Attorney, for the City of Richmond.

SHORE AND SEAVEY, *Commissioners*.

OPINION.

This is an investigation instituted on the Commission's own motion to determine the reasonableness of the fares, rates, charges, practices, rules and regulations of the vehicular ferry service of Southern Pacific Company between San Francisco and Oakland.

Public hearings were held in this matter in San Francisco on December 1, 1924; April 21, May 20, 21, 22, 26 and 27, 1925.

The order instituting this proceeding directed this investigation as to those rates and services shown in Southern Pacific Company's local freight tariff No. 380-K, C. R. C. 2612, and Southern Pacific Company's local passenger tariff B. M. No. 1, C. R. C. 2979, issued June 28, 1921, effective July 1, 1921. These tariffs refer to the company's freight, vehicular and passenger business as handled by the vehicular ferries operating between San Francisco and the foot of Broadway, Oakland, and between San Francisco and the vehicular ferry slips at Oakland mole, Oakland.

The company contends that all of their transbay facilities, including San Francisco-Oakland auto ferry lines, the San Francisco-Richmond auto ferry line, and the San Francisco-East Bay passenger ferry and interurban electric lines render a single, separate and unified service. The above-named tariffs do not include the San Francisco-Richmond auto ferry service nor the San Francisco-East Bay passenger ferry interurban electric line service and those services are therefore not before the Commission for investigation in this proceeding.

The mere fact, however, that these other rates and services were not included in the order instituting investigation, does not make it inappropriate to discuss the merits of the carrier's claim that all of these services should be considered as a single, unified service.

In proof of their contention that the entire transbay system is a unified and separate service, Mr. F. L. Burekhalter, assistant general manager for Southern Pacific Company, testified in considerable detail regarding the past history of the vehicular traffic between San Francisco and Oakland, claiming that the interchange of facilities had, in the past, been necessary to keep pace with the changes and growth of the various forms of traffic, thus necessitating all of the transbay service being considered as a single or unified service. Counsel for the company, in his oral argument, referred to Mr. Burekhalter's testimony on the history and development of the ferry business and largely on that testimony based his contention that the whole transbay ferry and electric interurban rail operations of the company constituted a single, separate and unified service.

Examination of the detail of Mr. Burekhalter's testimony in this regard shows that in 1912 the company added an additional steamer to their vehicular ferry business in order to relieve the Oakland pier passenger boats of the vehicular traffic which, it was stated, was more or less of a nuisance at any time when handled in conjunction with their passenger and railway service and in 1913 automobiles were entirely barred from the Oakland pier passenger boats, due to safety reasons. This witness stated: "We have always regarded it as desirable to segregate the automobile traffic from the heavy loads of passenger traffic as a safety measure."

It also appears that the company's public time table, which shows the regular schedule service rendered by the various vehicular ferry routes, carries the following notice:

NOTE.—This is exclusively a vehicular ferry service and is not connected with any part of any rail service.

The evidence further shows that in 1919, in an action before the Supreme Court of the State of California (*Southern Pacific Company, a corporation, vs. Friend W. Richardson as State Treasurer of the State of California*, 181 Cal. 280), in which this carrier sought to have its

vehicular ferry operations exempted from taxation on a gross revenue basis, as provided in section 14 of article XIII of the constitution, Southern Pacific Company contended that its vehicular ferry system was a distinct and separate service and in no way a part of its transbay passenger and rail service. In its brief before the court in that proceeding, the company stated:

We respectfully submit that the testimony we have briefly outlined clearly shows that from all of the four standpoints from which one may judge the use of this property, namely, Operating, Traffic, Accounting and Historical, the Creek Route Ferry System has never been exclusively or at all used "in the operation of the railroad business of the plaintiff," but has been separate and distinct from such railroad business to the same extent as if the Southern Pacific should buy and independently operate as it is now being operated the automobile ferry system at Benicia, with which those who have motored from Sacramento to Oakland are familiar. This separation of the Creek Route Ferry System from the rail lines could not have been with taxation in view because it far antedates the present tax system. The fact remains that the separation was and has been throughout the life of the Ferry System an accomplished fact, and that the system might be entirely discontinued without in any way disturbing the railroad operations of the plaintiff or in any way impairing the functioning of the plaintiff as a common carrier by railroad.

The appellant herein refers to the evidence that "the record discloses that the Creek Route boats are repaired at a yard or shop maintained by the company for the use of all the ferry boats employed by it in its transportation business." This is not controlling. It might as well be said that if the Southern Pacific Company operated the Hotel Oakland and sent its pots and pans to the shipyard to be repaired that that would be evidence that the property of the Hotel Oakland was taxable under the gross receipts method. (Pages 18-19.)

It is respectfully submitted that the evidence clearly shows that the physical property of the Creek Route system is not only not exclusively employed in railroad service, but is not employed at all in such service * * *. (Page 23.)

There was also included in the brief above quoted, a historical sketch of Southern Pacific Company's Creek route ferry service supporting the contention of the company in that case that its vehicular ferry service was entirely distinct and separate from its rail operations or other ferry services in connection therewith, and this historical sketch is closely parallel to the history of this service as given in the present proceeding by Mr. Burekhalter.

It does not appear from anything presented in the present proceeding that the relationship between the vehicular ferry service and the other operations of the Southern Pacific Company has changed since 1919, and since the decision of the Supreme Court in the case referred to was in favor of the company, we see no reason for departing from that theory in this proceeding. The fact that in 1921 an entirely new vehicular ferry route was established to a newly constructed terminal at Oakland mole does not, in any way, alter the status of the vehicular ferry service as being entirely distinct from the rail operations of the company.

The evidence in this proceeding, including the testimony of the company's witnesses, goes to show that there is no mutuality of operations between the vehicular ferry service and any other part of the

operations of this company's system, including its transbay ferry and electric interurban service, except such minor and incidental relationship as naturally pertains to common ownership.

The same reasoning, however, does not apply to the contention of the company that the Richmond auto ferry service, which was not in existence at the time this proceeding was instituted, should be included as a part of its unified ferry operations. No strong representations were made by the company in support of this contention. The company claims that it was to afford relief to the Oakland ferries that it undertook the Richmond service. An exhibit was introduced (Southern Pacific Exhibit No. 20), in which it was shown from a three (3) day check that 68 per cent of the vehicles formerly handled by the Oakland ferries were destined to Alameda County points in the immediate vicinity of Oakland and that 32 per cent were through passengers destined to points more distant; that it was to relieve the Oakland ferry of a portion of these so-called through movements that the new service to Richmond was inaugurated. In view of the fact that this exhibit shows that only approximately 45 per cent of the through traffic, or 14 per cent of the total traffic as shown by the exhibit, could use a ferry route via Richmond and probably a portion of this amount could be as conveniently served by the Oakland ferry, it appears that the argument that the Richmond service is in the nature of a relief to the Oakland service, completely fails, as the relief to be so afforded obviously would be relatively small. Moreover, the Commission can not ignore the fact that this very Richmond ferry service was authorized by this Commission by a certificate issued to an entirely different company, viz, the San Francisco-Richmond Ferry Company, and it appears that the franchise and certificate of that company was subsequently acquired by the Southern Pacific Company. Very clearly this service, if rendered by the company originally receiving the certificate, could not in any sense have been considered as a part of the vehicular ferry service being rendered by the Southern Pacific Company to Oakland. The fact that there has been a change of ownership in this route does not in any sense appear to change the distinctiveness of this service.

It appears, therefore, that the issues of this proceeding should be restricted to an investigation of the vehicular ferry service rendered by Southern Pacific Company between San Francisco and Oakland. This service is rendered over two routes, commonly called the Creek route and the Oakland pier route, respectively. The former and older service is operated from the Ferry Building in San Francisco to the foot of Broadway in Oakland on a 45-minute headway during the week by using two boats, and on an hour and a half headway on Sundays and holidays, using only one boat. The Oakland pier route is operated between the Ferry Building in San Francisco and vehicular ferry slips

at Oakland pier, which are reached by Seventh street extended along the northerly side of the Southern Pacific's rail terminal. On week days service is given on this latter route on a 30-minute headway, using two boats. On Saturdays a 20-minute headway is given and on Sundays and holidays additional service is rendered as traffic requires, usually during peak periods with a maximum of five boats in service. The San Francisco terminals are leased from the Board of State Harbor Commissioners, but the company owns its terminals at the foot of Broadway and at Oakland pier.

Vehicular ferry transportation between San Francisco and Oakland / dates back to 1850. The growth in this service was slow until the advent of the automobile into common use, beginning about 1906. Since that time the traffic has grown rapidly and in 1921 service over the second route to Oakland (Oakland pier route) was inaugurated. Since the establishment of the augmented service to Oakland pier, the total traffic has grown even more rapidly than before, although the Creek route traffic has decreased.

The Commission's engineering department made a comprehensive study of the adequacy of the present service and with the exception of suggesting certain modifications and augmentations to the schedule, to take care of anticipated growth of business, and with the further exception of suggesting the replacements of single-apron slips with double-apron slips to more rapidly handle traffic at the terminals, the engineering department's report commends the service as excellent. The engineering department also made certain investigations as to the safety of the service with the result that it found that during certain peak hours there was a tendency to so congest vehicles on the boats as to create an undue hazard of panic in cases of fire or accident. It is recommended that automobiles be spaced 15 inches, both longitudinally and laterally, to permit the free movement of passengers in the event of fire or collision. This suggestion, for additional safety, appears sound and should be put into effect.

The only other issue to be determined in this proceeding is the reasonableness of the rates and these will now be discussed.

The Commission's engineering department presented a detailed inventory and appraisal of the properties used by the Southern Pacific Company in their auto ferry service between San Francisco and Oakland (Commission's Exhibit No. 3). The values shown in this report are for a total value of all property, whether exclusively used in this service or jointly used in this and other services. A separate report was presented by the Commission's engineering department (Commission's Exhibit No. 7), in which a basis of apportionment of the jointly used properties was given. Four statements of value are presented and

these totals, together with the amount apportioned to the auto ferry service, were stated as follows:

	Total	Apportioned to auto ferries
Historical reproduction cost-----	\$7,344,438 00	\$3,748,246 00
Historical reproduction cost, less depreciation-----	6,425,682 00	3,301,791 00
Reproduction cost new -----	8,652,548 00	4,492,175 00
Reproduction cost new, less depreciation-----	6,961,214 00	3,639,764 00

The Southern Pacific Company presented a statement of value, being upon a reproduction cost new basis, undepreciated (Southern Pacific Company's Exhibit 13), in which the total value of property apportioned to auto ferry service, was stated to be \$13,236,469. All of the above statement of values was of December 31, 1924.

During the course of the hearing, Southern Pacific Company amended its statement of reproduction cost new, apportioned to auto ferry service, to \$10,313,036. Inasmuch as the Southern Pacific Company did not present any statement of value on any basis other than reproduction cost new, undepreciated, their figures are comparable only with the equivalent figures presented by the engineering department and these comparable figures of value are shown as follows:

Southern Pacific—	Unapportioned	Apportioned to auto ferry
Reproduction cost, new-----	\$16,566,344 00	\$10,313,036 00
Commission's Engineering Department—		
Reproduction cost, new-----	8,652,548 00	4,492,175 00

The important differences between these figures appear to be made up as follows:

1. Unapportioned value.

(A) Differences in inventory and values.

- (a) Southern Pacific includes value of Richmond terminals.
- (b) Southern Pacific claims larger value for lands.
- (c) Southern Pacific includes all of Peralta street wharf as compared with the used portion of that wharf included by the engineering department.
- (d) Southern Pacific includes numerous items of floating working equipment. The engineering department includes only the fire tug "Ajax."
- (e) Southern Pacific includes material and supplies, while the engineering department has, in its service report, added a comparable item of working capital to each of the four elements of value determined by it.
- (f) Southern Pacific exceeds engineering department in prices applied to certain items as follows:
 - (1) Dredging at shipyard.
 - (2) Shop buildings at shipyard.
 - (3) Terminals at Oakland pier.
 - (4) Water tank at Oakland pier.

(B) Southern Pacific exceeds engineering department in allowance for certain overhead expenditures incurred during construction as follows:

- (a) Engineering.
- (b) Interest.

2. Apportioned value.

(A) Southern Pacific differs from engineering department in apportioning certain items as between Oakland auto ferry service and other services as follows:

- (a) Shipyard property.
- (b) Water facilities at Oakland pier.
- (c) Oil facilities at Oakland pier.
- (d) Equipment.

A detailed comparison of the differences indicated above and conclusions as to each follows:

1. Unapportioned value.

(A) Differences in inventory and values.

(a) Richmond.

Southern Pacific claimed value includes an item of \$284,598 for the Richmond auto ferry terminal. Since the Richmond service is not under consideration in this proceeding, this item should be excluded.

(b) Land values.

The land value claimed by the Southern Pacific Company, Exhibit 10-A, with the exception of Oakland pier, is the so-called "railroad value" which is the carrier's claim for present naked land value, plus the cost of acquisition, incidental expenses, taxes and interest.

The value submitted by the engineering department of the Commission is the present value, based on the market value of similar adjoining or adjacent lands in private ownership, nothing being added to market value to cover cost of acquisition, interest or any of the other items going to make up the so-called "railroad ratio" or "multiple." By market value is meant the sale price between a willing buyer and a willing seller when neither the one is forced to buy nor the other to sell.

As included in Exhibit 10-A, the items of cost of acquisition, incidental expenses, taxes and interest amount to a total of \$4,472,722.90.

It has been the consistent practice of this Commission to allow nothing for land value in excess of the fair average market value of similar lands in the vicinity and we see no reason in this case why the value of fee land should not be based on the average market value of adjacent property of similar character.

It is claimed by the company that the term "ship channel" as used in the deeds to the water front properties on the north side of the Oakland inner harbor, is the United States pierhead line and that at the site of the Broadway slip and pier and the marine ways and shipyards, the company's private ownership extends to the United States pierhead line.

It is the position of the engineering department of the Commission that private ownership extends to the low tide line of 1852 where same has been fixed by agreement, compromise or judicial action and where the low tide line of 1852 has not been fixed and a case comes up for adjudication at the present time then private ownership extends to the low tide line of 1852 as changed from day to day by such gradual and imperceptible changes as may occur in the location of that line until

the date of action, nothing being lost by dredging and nothing being gained by filling.

In the *City of Oakland vs. Samuel H. Buteau*, 180 Cal., page 83, the court says:

It would seem, therefore, that the true interpretation of the term "ship channel" as used in the act of May 4th, 1852, is the line of low tide as affected by such gradual and imperceptible changes as may, from time to time, take place in the location of that line.

From the evidence in this case it appears that the land at the southern boundary of the Broadway slip and pier and the shipyards is considerably inside or shoreward of the United States pierhead line. For the purpose of this proceeding, however, no deduction is made from the areas as claimed by the company on account of the location of "ship channel" and the unit values found are applied to the area extending to the United States pierhead line.

A tabulation showing the naked land values claimed by the company as compared with the values found by the engineering department of the Commission, follows:

Item	Company Exhibit 10-A			C. R. C. Exhibit 4			Difference
	Area in square feet	Unit	Total	Area in square feet	Unit	Total	
Marine ways and shipyards.....	2,312,841	\$1 50S	\$3,469,261 50	2,312,841	\$1 00S	\$2,312,841	\$1,156,420 50
Broadway slip and pier.....	107,898	6 75S	728,311 50	95,178	4 50S	428,301	300,010 50
Oakland pier.....	233,743	1 00S	233,743 00	233,743	-----	*3,035	230,708 00
Totals.....	-----	-----	\$4,431,316 00	-----	-----	\$2,744,177	\$1,687,139 00

*Estimated original cost.

The area occupied by the Broadway slip and wharf, as submitted by the company, consists of 2.477 acres of land, mostly submerged, located on the north side of the Oakland inner harbor from the west line of Broadway to the center line of Washington street, and extending to the United States pierhead line.

The naked or bare land value claimed by the company for the site of the Broadway slip and wharf is \$728,311.50, based on a unit value of \$6.75 a square foot. This value is comparable to a value of \$428,301 for this property found by the engineering department of the Commission, based on a unit value of \$4.50 a square foot.

The difference in value of this property amounts to \$85,860, on account of the exclusion of the area of Washington street by the engineering department of the Commission and \$214,150.50 on account of a difference of \$2.25 in the unit value of the property, or a total of \$300,010.50, by which the engineering department of the Commission is lower than the value submitted by the company in Exhibit 10-A.

Mr. Boylin, witness for the company, testified that the easterly half of Washington street was still owned by the Southern Pacific Company and that they had never parted with title to that piece of land and Mr. Durbrow stated that in the case of *City of Oakland vs. Oakland Waterfront Company*, 162 Cal., page 675, the Supreme Court "holds that title to those streets did not vest in the city of Oakland."

A portion of the decree signed by the court below in the case of *City of Oakland vs. Oakland Waterfront Company* (decided April 7, 1902, superior court of the county of Alameda, F. B. Ogden, judge), is as follows:

That plaintiff is also the owner of the easement and right of way as and for public streets over and across the following designated strips or parcels of the land described in the complaint to wit: Over and across those parts of Washington street, Webster street and Broadway street in said city extending from the line of ordinary high tide to the line of ordinary low tide on the northern side of the estuary of San Antonio which said strips or parcels of land or public streets dedicated to public use and that plaintiff's title to said pieces of land so owned by it and its said rights concerning sewers and its said easement and rights of way as and for public streets as aforesaid be and the same all and similar are hereby quieted.

This decree has been affirmed on appeal by the Supreme Court of this state, May 24, 1912, as will more fully appear by reference to the decision of that court, reported in Vol. 162 of Cal. Reports, at page 675.

In the *City of Oakland vs. S. H. Buteau*, superior court of Alameda County, No. 37024, Department 2, January 27, 1924, under findings of fact is the following:

Washington street is a public highway in said city of Oakland, 80 feet 6 inches wide and extends from First street to the line of ordinary low tide on the northerly side of Oakland harbor.

In Statutes and Amendments to the Codes of California, 1923, chapter 174, page 416, an act granting certain lands, tide lands and submerged lands of the State of California to the city of Oakland and regulating the management, use and control thereof, approved May 18, 1923, the state grants to the city of Oakland all lands from the center line of Adeline street to the eastern line of Washington street and from the low tide line of 1852 to the south city limits of Oakland.

It is not incumbent on this Commission to pass on the ownership of the fee to the area included in Washington street. From the evidence, however, it appears that Washington street is a public street from First street to the ordinary low tide line and that the land beyond the low tide line is owned by the city of Oakland. For this reason no part of the area of Washington street should be included in this proceeding.

The company's unit value for the Broadway property, \$6.75 a square foot, is based on the testimony of witnesses Sessions, Boylin and Taylor.

Although the record shows that all of these men are familiar in varying degrees with land values in Oakland, Mr. Sessions being particu-

larly familiar with the Oakland waterfront, very little direct evidence was introduced to support their opinion on the value of this land.

In so far as sales data were used by the company's witnesses, the main reliance appears to be on the cost to the city of Oakland of the so-called Taylor purchase, located on the south side of First street, between Broadway and Washington street, which was purchased by the city of Oakland in 1911, at a cost of approximately \$4.70 a square foot.

In addition, testimony was given on the sales of the following properties: An irregular parcel of land on the south side of First street, between Clay and Washington streets, acquired by condemnation by the city of Oakland in 1911; the northwest corner of First and Broadway, sold in 1905 for \$4.75 a square foot; the southwest corner of Second and Broadway, sold in 1910, at \$4 a square foot; two sales on the southeast corner of First and Franklin streets, one for \$4.47 a square foot and another for \$3.50 a square foot in 1911.

The testimony of the Commission's assistant engineer, Mr. E. P. McAuliffe, shows that the so-called Taylor land, above mentioned, was purchased from an unwilling seller; that condemnation proceedings were actually started and the consideration subsequently settled out of court, indicating that this sale was not made at market value as that term is used by this Commission. The company's witnesses admitted that the price paid by the city for this property was too high.

It will be noted that the most recent of the sales used by the company's witnesses in support of their valuation were consummated in 1911, extending from 1905 to 1911.

The record shows a number of sales and other evidence of value of much more recent date on similarly situated properties that should certainly be given weight in considering a valuation as of December 31, 1924.

This evidence, introduced by Mr. McAuliffe, in support of a valuation of \$4.50 a square foot for the Broadway property, is as follows: Block 3, between First, Second, Grove, and Jefferson streets, sold in February, 1925, for \$1.825 per square foot; the east half of Block 4, fronting on First, Second, and Clay streets; and lots 1 to 8, in Block 5, fronting on First, Second, and Clay streets, sold in February, 1925, for \$2.11 per square foot; 6 lots at the southeast corner of Broadway and Second street sold in April, 1921, for \$2.08 per square foot, and the same property resold at a later date for \$2.47 per square foot; 6 lots at the southwest corner of Third and Broadway sold, in November, 1920, for \$2.67 per square foot, and an area of approximately 42,500 square feet, on the south side of First street, between Franklin and Webster streets, was listed for sale, as of date of valuation, for \$2.50 a square foot.

A map (Southern Pacific Exhibit No. 8) was introduced by witness Sessions, purporting to show the areas and unit costs of certain lands purchased by the city of Oakland in 1910 and 1911. The ratio of waterfront value to upland value, as developed from this exhibit, was 2.61.

Subsequent testimony, however, developed the fact that the southerly boundary of the city purchases, as shown on Exhibit 8, was the quay wall and not the southerly boundary of the land actually acquired by the city. Company witness Taylor stated that the correct ratio was 1.5 and that he applied this ratio to an upland value of \$4.50 a square foot to obtain his unit value of \$6.75 a square foot for the Broadway land.

It appears from the evidence that \$4.50 a square foot is a reasonable value for the land at the Broadway slip and wharf.

The land at the marine ways and shipyard consists of a tract of 56.697 acres on the north side of the inner harbor, with a water frontage of approximately 1500 feet and an average depth of over 1600 feet. More than 20 acres, or over 36 per cent, is submerged at low tide, and approximately 32 acres, or 57 per cent, is submerged at high tide. The unit value of this land, as submitted by the company, in Exhibit 10-A, is \$1.50 a square foot, while the unit value as found by the engineering department of the Commission, is \$1 a square foot. The unit value of \$1.50 a square foot is based on the testimony of Mr. Boylin, Mr. Sessions testifying that in his opinion the land has a value of \$2.50 a square foot.

As direct evidence of the value of this property, the record contains three sales: First, an irregular parcel of land, consisting of 6.48 acres, between First street and the inner harbor and between the center line of Linden street and the center line of Adeline street, if extended, sold to Moore and Scott Shipbuilding Company, in April, 1920, for 73 cents a square foot; second, an irregular parcel of land, being a portion of the holdings of the Western Pacific Railway Company, located on the north side of the inner harbor between Adeline and Union streets, if extended, consisting of 8.076 acres, sold to Moore and Scott Shipbuilding Company, in October, 1919, for 95½ cents a square foot; third, an irregular parcel of waterfront land on the north side of the inner harbor, between Linden and Filbert streets, if extended, consisting of 3.6 acres, sold to Moore and Scott, January 22, 1918, for \$1.30 a square foot. The first parcel, above described, is not waterfront land but is comparable to the rear portion of the shipyard.

The evidence is conflicting as to whether or not the second and third parcels, above described, are actually waterfront lands. The record shows, however, that in the deeds to each of these parcels the southerly boundary of the property is described as "ship channel" which is the

same southerly boundary as contained in the company's deed to the shipyard land. Therefore, if ship channel is the pierhead line, the low tide line of 1852, or the present low tide line, these properties, as described in the deeds, are all in the same category in respect to whether or not they are waterfront lands.

The record shows that one of these purchases by the shipbuilding company was made during the war and that the other two were made in 1919 and 1920, after the war, and during the most extensive shipbuilding era. The activity of the shipbuilding company at this time is indicated by the number of employees, there being but 700 to 750 men employed prior to the war and approximately 10,000 men on an average during the war and the years 1919 and 1920. It was admitted that at this period the shipbuilding company was compelled to buy and, considering its necessity, it is fair to conclude that at the least, a liberal price was paid for the property.

An attempt was made by company's witnesses to show a great increase in the value of the lands in this vicinity during the last few years as evidenced by the growth of shipping, the scarcity of remaining available property for purchase and development and relative assessments on the same properties from 1917 to 1924. Mr. Boylin testified that the Moore and Scott property is now assessed for 38 per cent more than at the date of the above sales and further testified (Southern Pacific Exhibit No. 21), that the percentage of assessed value to the sale price, as calculated by him on 14 waterfront sales, was 19 per cent.

The record also shows that a nonoperative portion of the Western Pacific waterfront property, immediately adjoining the shipyard on the east, is assessed at approximately \$6,000 an acre. Assuming the percentage of assessed value to real value, as testified to by Mr. Boylin, to be correct, this would give a value for this property, based on assessments, of \$31,579 an acre, or 72 cents a square foot. The record also shows that the waterfront sales under consideration are located east of the shipyard property and that the assessed value of these properties is approximately 100 per cent higher than the assessed value of the nonoperative portion of the Western Pacific property adjoining the shipyard, indicating a much lower land value in the vicinity of the shipyard than in the vicinity of the Moore and Scott holdings.

It is concluded that \$1 a square foot represents a fair value for the land at the marine ways and shipyards, as of December 31, 1924.

The land devoted to the vehicular ferry service at Oakland pier consists of 5.366 acres on which is located two ferry slips and the road to same. This land is part of a tract of approximately 263 acres to which the Southern Pacific Company has the exclusive use and is occupied by the company under a franchise granted by the city of Oakland.

Ordinance No. 3197, dated November 7, 1910, and approved November 23, 1910, grants to the Southern Pacific Company the right and franchise for a term of 50 years to the exclusive use of a portion of the waterfront of the city of Oakland. The franchise generally is a settlement of many matters between the company and the city and provides for the construction of certain waterfront improvements for the dedication of certain streets and the dismissals of certain suits and claims relevant to title to certain specified properties.

The company's valuation of the portion of this franchise devoted to vehicular ferry transportation is the estimated fee value of the land so used. The company's witnesses, Boylin and Sessions, testified that in their opinion the fee to the land at the pier is owned by the company.

The Commission must attach greater weight to the fact that the Southern Pacific Company accepted from the city of Oakland a franchise for the use of this property than to a new theory developed by one of its witnesses presuming to claim that the company holds fee title to the property. It is reiterated that this Commission is not a proper tribunal before which to try title but for the purposes of this proceeding the fact that the Southern Pacific Company has accepted a franchise from the city of Oakland will be taken as prima facie evidence that the land is occupied under franchise and is not owned in fee by the company.

Section 52, of the Public Utilities Act, provides, and it has been consistently held by this Commission, as expressed in its Decision No. 2412, dated May 24, 1915 (6 C. R. C. 1023), that no value can be allowed for a franchise other than the actual cost of acquisition.

There was no cash consideration for this franchise other than a nominal rental of \$1,500 a year for the first twenty-five years and \$3,000 a year for the second twenty-five years. There was, however, a sacrifice incurred by the company represented principally by the value of the land dedicated for streets elsewhere and the value of the improvements that revert to the city at the end of the term of the franchise, and secondly, by the value of whatever interest the railroad company had in certain properties and rights that were relinquished or quitclaimed to the city of Oakland.

These costs must be charged against all the rights received by the company under the franchise, including the exclusive use of approximately 263 acres of land as well as the joint use of other large areas. The portion of such costs chargeable to the area devoted to the vehicular ferry service is, therefore, very small. Commission's Exhibit No. 4 includes the value of the land dedicated for public streets as same is described in the franchise, at an estimated value of \$148,760. The amount chargeable to the vehicular ferry service (5.366 acres) is \$3,035.

Southern Pacific Company Exhibit No. 11, introduced by Mr. Boylin, "is an indication of the sacrifice that the Southern Pacific Company was put to in its negotiations with the city of Oakland covering that (263 acres at Oakland pier) property."

Mr. Boylin testified that the so-called costs included in Exhibit No. 11 were not at present carried on the books of the company. He also testified that he did not establish the values contained in the exhibit and that they were not the result of his own opinion.

It may be that there was some franchise cost, as measured by sacrifice incurred by the company, other than the cost set forth in Commission's Exhibit No. 4, but in the absence of adequate evidence showing such cost, it appears that \$3,035 is a reasonable amount to allow as the cost of that portion of the franchise devoted to the use of the vehicular ferry service.

In view of the evidence presented, there should be deducted from the claim of the Southern Pacific Company (Exhibit 10-A), for the value of lands, the sum of \$6,159,862.

(c) Peralta street wharf.

Southern Pacific includes all of the value of the Peralta street slip and wharf, whereas the engineering department only includes a portion of that facility. It appears that a portion of this facility is not used in any manner, that it is fenced off because of unsafe condition and that there has been tied up in the slip itself for two years a condemned boat on which no work is performed. Under these circumstances it does not appear proper to include that portion of a facility which is not only not used but useless.

Witness for Southern Pacific stated that it had plans for the replacement of this entire facility with a more adequate facility, at a cost of approximately \$100,000. The Peralta street slip and wharf were built for use as a rail freight terminal, and the fact that it was not designed as a shipyard facility and is only partly so used, appears to be conclusive evidence that it should not be included as a part of the value of the shipyard property to any greater extent than it is actually used at the present time. The value of that portion of this facility, which the Southern Pacific claims should be included, and which has not been allowed by the engineering department, based on Southern Pacific values amounts to \$65,417.

(d) Floating work equipment.

Southern Pacific's unapportioned value includes \$651,392, for a number of items of floating work equipment, whereas the engineering department excludes all such items except the fire tug *Ajax*. The Southern Pacific Company's unapportioned value for the fire tug *Ajax* amounts to \$149,349. The Commission's transportation engi-

neer, A. G. Mott, testified that work equipment was not included in the engineering department's valuation but that an allowance for rental of work equipment was included in the prices of the quantities entering in the valuation itself and recommended a yearly allowance in operating expenses of \$10,000, for the use of certain facilities only incidentally used, such as floating work equipment, oil pipe lines and general shops, and which were not included in the engineering department's valuation. With such an allowance made in operating expenses, it does not appear proper to include the value of facilities only remotely or incidentally used in this service in the rate base. This would result in a deduction of \$502,043 from the Southern Pacific figure.

(e) Material and supplies.

Southern Pacific Company includes \$284,996, for material and supplies and fuel oil. No allowance was directly made by the engineering department for this item, but the engineering department, in its service report, adds to its total apportioned valuation figures an amount which it states is largely to cover a reasonable allowance for a stock of materials and supplies and such expenses which are incurred somewhat in advance of the rendering of the service. When this is considered with the fact that the company's allowance for material and supplies is based upon 43 per cent of all shipyard supplies, it appears that the allowance of the engineering department for working capital, including stock of material and supplies, is adequate.

The working capital, as included by the engineering department, amounts to \$83,400. This amount should be added to any figure of value found, in order to arrive at a proper rate base. Using this method of determining the rate base, and in view of the evidence, it appears proper to deduct these items of material and supplies from the Southern Pacific Company's claim of value.

(f)-1. Dredging at shipyard.

The Southern Pacific claimed a value of \$70,000 for the dredging at the marine ways. The engineering department gave a value of \$19,604 for this work. The company testified that its claim as to this item was based on the allowance of \$40,000 made by the Interstate Commerce Commission in its valuation of 1916. This amount was raised by a ratio of \$70,000 as shown in Southern Pacific Company's Exhibit No. 13. As a further basis for its claim, it was stated that in the original work order, dated April 29, 1904, an amount of \$19,385 was estimated as necessary for excavation and dredging and that this estimate for the work was exceeded.

It was pointed out by Mr. Mott that the Interstate Commerce Commission's value for the marine ways, including dredging and hoisting apparatus was \$111,510 and that the engineering department's value

for the same facilities was \$143,173. Mr. Baker, a valuation engineer for the company, testified that while the \$40,000 was included in the \$111,510, which would indicate that the engineering department's value was high, the Interstate Commerce Commission had admitted an error of \$50,000 in this item and that a like addition would be made in the revised report. This would increase the Interstate Commerce Commission's value to \$161,510.

Both the Southern Pacific and the engineering department used the Interstate Commerce Commission's report in support for this item and it is concluded that \$161,510 as established in that report, should be used. This would result in an increase in the engineering department's figure of \$33,854 and a decrease in the Southern Pacific's figure of \$7,320.

(f)-2. Shop buildings at shipyards.

The engineering department value of shop buildings at the shipyards amounts to \$134,939. The Southern Pacific claim is \$192,343. These values were in both instances obtained by applying ratios to the value determined under historical conditions. The historical values were not far apart, the difference in the final results being accounted for by the different ratios used. The Southern Pacific Company used a ratio of 2.10 and the engineering department used a ratio of 1.75. Witness for the Southern Pacific testified that its ratio was similar to the general index number established by the Engineering News Record for structural price levels and that no attempt was made to establish a ratio applying to these particular facilities. The engineering department's ratio was compiled from a study of costs as applied to inventory of these shops, these costs being determined by the materials and labor involved in that inventory.

It is concluded that the values given by the engineering department are more reasonable and should be used, which would result in a deduction from the Southern Pacific figure amounting to \$57,404.

(f)-3. Terminals at Oakland pier.

The Southern Pacific valuation includes \$215,848 for wharves and slips at Oakland pier. The engineering department includes \$186,076. The Southern Pacific value for wharves was taken from the record of cost as shown in the completion reports. No attempt was made by the Southern Pacific valuation department for the purpose of its report in this matter to check these completion reports either as to inventory or price. An examination of the detail of these reports shows that they are inconsistently compiled and can not be taken unquestioned to represent the actual cost of investment. The engineering department value was compiled from a detailed field inventory and appraisal and the

value so determined should be used. This results in a deduction of \$29,772 from the value as found by the Southern Pacific.

(f)-4. Water tank at Oakland pier.

The Southern Pacific includes in its valuation \$11,008 as the value of the water tank at Oakland pier. The engineering department includes \$4,907. The company presented certain testimony in support of its value and pointed out that the water tank was similar in size to the oil tank in the same location, both of which are of 65,000 gallons capacity. The water tank is supported at the top of a 74-foot steel tower resting on a concrete mat and pile foundation. The oil tank rests on a low tower and should be a cheaper structure. In the Southern Pacific Company's valuation it is so shown, the value of the water tank being \$11,008, and that of the oil tank being \$6,554. In the engineering department's valuation, a value of \$4,907 is given for the water tank and a value of \$5,636 for the oil tank. It would appear from the evidence that the Southern Pacific Company's value for the water tank is more reasonable and consequently should be used. This would result in a \$6,101 addition to the engineering department's value.

(B) Allowance for engineering and interest.

(a) Engineering.

The Southern Pacific applied 6 per cent to accounts 3 to 44, inclusive, for engineering. The engineering department applied 4 per cent to the same accounts. The Southern Pacific based its claim for engineering on studies of eleven construction jobs of the company amounting in money to \$39,392,781. A percentage of 5.98 per cent was developed and 6 per cent was used. None of the construction work within the scope of these auto ferry properties was involved in the above studies and no actual study of the engineering expended on any portion of the property included in auto ferry service was made. The percentage used by the engineering department was developed for these particular properties and that percentage should be used.

(b) Interest during construction.

The Southern Pacific Company applied 10 per cent to accounts 1 and 3 to 47 inclusive, for interest during construction, and 5 per cent to account 56 (floating equipment) and 57 (work equipment), which amounted in money to \$413,064. The engineering department applied the following percentages to accounts 1 and 3 to 44 inclusive, these accounts being segregated for different locations:

Marine ways	4½ per cent
Oakland pier	3 per cent
Broadway	3 per cent
Equipment (including accounts 56 and 57)	3 per cent

The percentage as used by the Southern Pacific Company was developed on the basis of a three-year construction period for those facilities at the pier and the Oakland yards; these facilities being considered as a part of a relatively large unit of its rail system, extending from Oakland to Tracy via Niles.

The engineering department's allowance is based on 6 per cent per annum for one-half of an estimated construction period plus 3 months.

The Southern Pacific Company testified that in their opinion it would not require three years to build the auto ferry facilities and that no attempt had been made in their estimate to establish any construction period for those particular facilities other than that used for the entire valuation section.

It therefore appears that the percentages as developed by the engineering department should be used and, substituting the engineering department's allowances for these overhead expenditures for those used by the Southern Pacific Company, the company's statement of value would be reduced by \$195,168.

The unapportioned reproduction costs of these properties, after being corrected as above discussed, compare as follows:

Southern Pacific Company	\$8,912,776 00
Engineering Department	8,697,392 00

It is seen from the above comparison that a reconciliation of the differences as enumerated above, results in very similar values, the difference yet remaining being due to certain small and unimportant differences in individual items not included in the analysis.

2. Apportioned value.

With the above adjustments made to inventory and value on reproduction new basis unapportioned, a further analysis of the proper apportionment of certain items of property jointly used in conjunction with other operations of the company is necessary.

(a) Marine ways and shipyards.

The most important of these jointly used properties is the marine ways and shipyards.

The engineering department, in Commission's Exhibit No. 7, pointed out the inefficiency, in their opinion, of this facility, both as to investment and operation. In this exhibit no properties were segregated as between operative and nonoperative property, but all properties included in the valuation were considered as operative with the exception of the unused portion of the land at the shipyards. The engineering department presented, in the same exhibit, the results of their detailed field inspection from which it determined, that only 47.84 per cent of the land should be classified as operative, and that even this

operative portion could have been much more efficiently developed had it not been used as a combined freight terminal and shipyard.

The company made no segregation of this land, the total area being included in their valuation as operative property. Mr. Burckhalter stated, however, that, in his opinion, that portion of those lands used for a pile boom should not have been included. This boom, he estimated, occupied 21.4 per cent of the total land area. The company also testified that certain tracks, within the shipyards leading to the old Peralta street freight slip, were not included in the valuation. No deduction was made, however, from land for the area occupied by these tracks. In regard to the remaining unused portions of land, the company stated that while these lands were not used at this time, they had been used and probably would be used again.

It is concluded that inasmuch as both the company and the engineering department find certain land at the shipyard to be nonoperative as regards this investigation, and inasmuch as the percentage stated by the company obviously does not include all the land that should in fact be so considered, that the percentage as determined by the engineering department should be used and that portion of the land value deducted before any apportionment to auto ferries is made. The difference in money involved, based upon the Southern Pacific value due to the difference in these percentages amounts to \$711,430.

In regard to this apportionment to auto ferries, the company assigns 43 per cent and the engineering department assigns 28.18 per cent, subject, however, to the question of whether any portion of value of these facilities should be considered as a part of a rate base for the auto ferry service, as is subsequently discussed.

The Southern Pacific's apportionment of 43 per cent of the shipyard property is based upon the number of boats assignable to this service, stated by Mr. Adams, assistant auditor of the company, to be $9\frac{1}{2}$ boats out of a total of 22. The engineering department assigns to this service 6.91 boats out of a total of 24. The difference in the number of boats is explained by the fact that the Southern Pacific includes the Richmond boats but does not include all the Sacramento River boats. The $2\frac{1}{2}$ units included by the Southern Pacific for the river boats was based upon an attempt to give these craft a lesser weight in shipyard apportionment, because of their lesser size. This appears to be a recognition of the principle that the factor of tonnage should be included in the building up of an apportionment.

The engineering department's apportionment gives consideration not only to the units used but also to the tonnage, the hours of service and the mileage of service of the various units. The consideration given by the Commission's engineers to those other items affecting maintenance at the shipyards, leads to the conclusion that the basis of apportionment

adopted by them is more equitable. The apportionment to the Richmond service should be excluded, for the reasons given above. The difference in money based upon the Southern Pacific's value, due to these different apportionments, amounts to \$399,962.

(b) Water facilities at Oakland pier.

No evidence was introduced to support the Southern Pacific Company's apportionment of 50 per cent of the value of the water station at Oakland pier to the vehicular ferries, whereas the engineering department's apportionment of 34 per cent was based on rational assumptions. That apportionment therefore appears more equitable and is used.

(c) Oil facilities at Oakland pier.

Similar reasoning applies to the apportionment of jointly used fuel facilities at Oakland pier and the engineering department's apportionment of 42½ per cent to auto ferries is used.

(d) Floating equipment.

Southern Pacific Company has included in its assignment to vehicular ferry service, the six new steel boats, and the wooden boats, *Garden City*, *Melrose*, *Thoroughfare* and half of the *Encinal*. No set-up was made as between the Richmond service and the Oakland service, except that Mr. Burekhalter testified at the first hearing that when the Richmond service was inaugurated, two boats would be assigned to it, and that very probably boats of the *Yosemite* type would be used. The assignment by the engineering department is the same, the *Yosemite* and *Shasta* being so assigned. This reduces to a consideration of the boats assigned the Oakland ferry service, Southern Pacific assigning 7.5 and engineering department 6.91. The two assignments are comparable in that the *San Mateo*, *El Paso*, *New Orleans*, *Klamath*, *Thoroughfare*, and *Melrose* are assigned 100 per cent to the service. Southern Pacific Company assigns 50 per cent of steamer *Encinal* to the service, while engineering department assigns 18 per cent and remainder to Alameda Pier Service. Southern Pacific Company assigns 100 per cent of the *Garden City* compared with engineering department's 77 per cent, remaining assigned to Vallejo service. Inasmuch as the engineering department assignment was based on a thorough analysis of actual operation during the year 1924 it is concluded that its assignment of the *Encinal* and *Garden City* should be used.

The fire tug *Ajax* was apportioned by the Southern Pacific 50 per cent to "regular" ferry service, apparently with the intention of later applying a further ratio of 43 per cent of the half assigned to regular ferry service as the proportion due auto ferries. Had the latter step been carried through in Southern Pacific Exhibit No. 13,

it would have resulted in assigning 21.5 per cent to the Auto Ferry Service.

Engineering department apportioned 28.18 per cent of the value of the *Ajax* to Oakland auto ferry service, being the same ratio that was applied in apportioning the shipyards. This assignment appears reasonable and will be used.

Applying the percentages of apportionment determined above to the unapportioned valuations previously developed, results in the following values for the properties used in the Oakland auto ferry service:

Southern Pacific	\$4,615,318 00
Engineering Department	4,505,206 00

The above figures are entirely comparable. Both figures are on the reproduction cost new basis and do not include any allowance for material and supplies and fuel oil. They closely approximate each other in amount.

In view of the respective methods apparently used by the company and by the Commission's engineers as to inventory, appraisal and apportionment, it appears proper to conclude that the reproduction cost, new, of these properties apportioned to the Oakland ferry service may be reasonably stated to be \$4,505,206.

Making the same corrections to the other statements of value determined by the engineering department results in the following statements of apportioned value:

Historical reproduction cost	\$3,755,336 00
Historical reproduction cost, less depreciation	3,303,553 00
Reproduction cost, new	4,505,206 00
Reproduction cost, new, less depreciation	3,642,991 00

The above figures include the apportioned value of the shipyard and marine ways and the testimony regarding the impropriety of including any value of the shipyards in a rate base for the auto ferry service will now be considered.

The engineering department estimates a total of \$80,490 of direct charges of labor and material for the maintenance of the auto ferry boats, of which amount approximately \$32,000 is for minor items of expense which do not require the placing of the boats in a shipyard, leaving approximately \$48,000 of work required to be done at a shipyard. An analysis of the overhead expense of the shipyard indicated that nearly \$20,000 including depreciation, is incurred annually, chargeable to the Oakland auto ferry service, an amount representing an overhead expense of 41 per cent in addition to the direct charges.

The engineering department estimates that if the company owned no shipyard facilities, that it would be possible for the company to have its boat maintenance performed at a cost approximately equal to that now incurred by making use of ordinary commercial rates of outside

shipyards. The engineering department also pointed out that if interest at 6 per cent of the apportioned value of the shipyards were added to the cost of maintenance of the auto ferry boats, that a further overhead charge of 34 per cent of direct charges of labor and material for repairs would be required, and that if 6 per cent interest were allowed on the Southern Pacific's original claim for the apportioned value of the shipyards, there would be added an interest charge which in itself would constitute an overhead of 420 per cent of direct cost of labor and material for boat repairs necessary to be incurred by use of shipyard facilities.

Mr. Mott stated that, in his opinion, these figures did not necessarily lead to the conclusion that the shipyard investment, when incurred, was improper. He pointed out that the yards were built and designed essentially for the construction of wooden-hull ferry boats at a time when wooden hulls were the accepted standard construction and at a time when other shipbuilding facilities on the Pacific coast were limited, but that at the present time this company has itself accepted the higher standard of steel-hull ferry boat construction and that the shipyards of the company are not properly designed for the construction of such steel boats, and also that there has now been developed on the Pacific coast numerous other shipbuilding facilities, particularly fitted for this work. This conclusion appears reasonable, in view of the fact that all of the recent boats acquired by the Southern Pacific Company for auto ferry services have been steel boats constructed in outside yards.

The company, through Mr. Burckhalter, ordered testimony as to the usefulness of the shipyards, by attempting to show that the company saved \$201,000 per year by the operation of its shipyard.

This estimate of saving of \$201,000, however, applies to all of the shipyard work of the company and on the assumption that all of that shipyard work would be performed in commercial shipyards, in the face of an admission that a good deal of the work does not require dockage. Based upon the engineering department's estimate of 60 per cent as being the maximum necessary to perform in shipyards, this saving would be reduced to \$139,800.

To measure the company's claim of the amount of this saving that should be applied to the auto ferry service, it will be noted that the engineering department has estimated that not more than \$48,000 worth of work will be required to be done in a shipyard, and assuming that all of this cost was labor and subject to the 32 9/10 per cent increase estimated by Mr. Burekhalter, the total saving, due to the use of the company's shipyards for auto ferry purposes, could not be considered as exceeding \$15,800, plus the company's estimate of \$3,100 per year for dockage fees for each of the 6.91 boats assigned to this service, amounting to \$21,421, less the cost of maintenance of facilities

at the shipyards amounting to \$19,994, leaving a net saving, due to the company's owning a shipyard, of not more than \$17,227.

Both Mr. Burckhalter's testimony and other testimony in this case indicates that the shipyards are, at most, only incidentally used for the benefit of the auto ferry service and that a large portion of their usefulness, if any, is because of other operations of the company.

The company also contends that aside from the economy of the shipyard, it was essential that they have the immediate ownership of the facilities to meet the requirements of their service, so that emergency repairs may be made at any time, whether on nights, Sundays or holidays or not. There are two factors that detract from the force of this argument; first, the company has a very comfortable margin of spare equipment available for just such emergencies and, second, the company has only facilities for dry-docking one boat at a time and this facility is usually occupied.

In view of this evidence it might be appropriate to exclude the value of the shipyard from a rate base and to increase the allowance for maintenance expenses to the amount which it appears might possibly be necessary were the company to rely entirely upon outside shipyard facilities.

Whether or not the value of the shipyards is included in the rate base in this case, however, is not important from the standpoint of rates, since its inclusion could not possibly affect the rate to be established for the transportation of vehicles by more than a very few cents, and, accordingly, for the purposes of this proceeding, the apportioned value of the shipyard and marine ways will be included in the rate base. Based upon all of the evidence presented, the sum of \$3,838,735, will be used as a rate base in this proceeding and it should be noted that this figure is greater than that found by the Commission for the reproduction cost new value depreciated, amounting to \$3,642,991.

The Commission's engineering department made a forecast of revenue and traffic, based upon existing rates and traffic conditions and modified only by normal growth, in which it was forecasted that there would be a 10 per cent increase in the total volume of traffic and an 8.72 per cent increase in revenue for the combined Oakland pier and Broadway routes.

Based upon this growth, the estimated revenue for the Oakland auto ferry routes for the year 1925 was estimated at \$2,300,770. This estimate was not contested by the Southern Pacific Company.

The engineering department also prepared a forecast of operating expenses, which is shown in Table No. 8 of Commission's Exhibit No. 7. A summary of this forecast of operating expenses, together with a comparison with the actual expenses incurred in or apportioned to the

auto ferry service by the company for the year 1924 as shown in Southern Pacific Company's Exhibit No. 17 is as follows:

	Commission Exhibit No. 7	Southern Pacific Exhibit No. 17
Total maintenance expense-----	\$137,710 00	\$162,339 00
Total transportation expense-----	639,904 00	626,728 00
Restaurant, wages, food and expense-----	118,000 00	107,214 00
Traffic expense-----	7,500 00	26,212 00
General expense-----	47,700 00	45,849 00
Depreciation-----	56,445 00	52,697 00
Total operating expense-----	\$1,057,259 00	\$1,021,039 00

The company pointed out that in their statement of expense no item is included for casualty insurance and Mr. Adams, assistant auditor of the company, stated that in his opinion there should be included full insurance on the floating equipment which he estimated would cost between \$150,000 and \$162,000 a year. This estimate was based, in all cases, upon the cost of insurance from outside companies and upon full coverage on the reproduction value undepreciated of the 9½ ferry boats which the company has assigned to all of its auto ferry service.

It appears that the Southern Pacific Company has adopted the policy of carrying its own insurance. This is a policy which has been adopted by many large companies and when a company has a sufficiently large financial reserve or a sufficiently large distribution of risk, the policy is unquestionably sound, as the costs in that event are limited to the actual cost of the losses incurred. The selling cost, overhead expense and profit on the insurance are in this manner largely eliminated and the cost of insurance on a particular unit of property is exactly proportional to the risk, no insurance cost accruing, except for fire risk, when the unit of property is out of service.

The company's witness admitted that transportation should not be burdened with insurance beyond its actual cost and with the company carrying its own insurance this cost is proportional to the average number of boats actually in service, rather than to the number of boats owned.

The engineering department's estimate includes an item for insurance of \$18,400. In view of the testimony offered, it appears that this sum is a reasonable sum to take care of the actual and ordinary insurable risks incurred in this service. Unusual hazards of the business is another matter that should be and will be taken into consideration in determining the reasonableness of the rates. Although the estimate of operating expenses presented by the engineering department was not contested by the company, the commission's transportation engineer, A. G. Mott, stated that, in his opinion, the estimate should be increased by a sum of approximately \$10,000, to take care of reasonable rental for certain facilities incidentally used for the benefit of the auto ferry

service, but not included in the valuation, such as pipe lines for delivery of fuel oil, certain floating work equipment and general shop facilities of the company at Sacramento. With this item added to the estimate presented by the engineering department, the figure of \$1,067,259 is arrived at as a reasonable estimate of operating expenses for the year 1925.

It thus appears that the financial results of operation of the Oakland auto ferry service for the year 1925, may be stated as follows:

Operating revenue	\$2,300,770 00
Operating expense	1,067,259 00
Operating income	\$1,233,511 00
Taxes	154,189 00
Net income available for return.....	\$1,079,322 00

This net income is equivalent to a rate of return of 28.1 per cent upon a rate base of \$3,838,735. This return is excessive and rates charged for transportation that produce such a high return are unjust and unreasonable. The Commission recognizes, however, that the rate of return is not the sole test of the reasonableness of rates. If the rate of return were the sole test in the case of such a highly stabilized operation as that of the Southern Pacific Company's auto ferry service, rates might properly be applied which would yield but the normal return allowed in railroad transportation. But there are certain other factors that should be taken into consideration in determining reasonable rates for auto ferry service. There are certain hazards inherent in the operation of ferry boats on San Francisco Bay, some of which can be adequately protected against by insurance or the setting up of insurance funds, but there are certain unusual risks or hazards which can not be met in this way. This condition appears to justify the allowance of somewhat higher rates than would be sufficient to yield a normal rate of return.

Another consideration is that of recognition of unusually good service as expressed in the disposition of the company to expand its facilities with the expanding needs of traffic. The Southern Pacific Company, in recent years, has shown such a disposition to expand its facilities, to acquire additional equipment and to offer a service commensurate with the traffic needs. This fact should be taken into consideration in determining the reasonableness of rates. There is, moreover, the possibility, although remote, of competitive conditions arising, which may interfere with the future prosperity of this form of transportation, such as the possibility of bridges or other traffic routes being developed. In this regard it should be noted that the particular service under consideration is one of the oldest public utility services in the state. During the past seventy years it has shown a fairly consistent and considerable

growth. It must therefore be considered as an unusually well established and stable business. The Commission has taken all of these facts and factors into consideration and after giving due consideration to all of them and all of the evidence in this case, it appears that rates should be established materially lower than the existing rates, but which will provide a rate of return substantially in excess of the return usually allowed to stabilized public utilities in this state.

Certain evidence was offered during the hearing of this proceeding by Albers Brothers Milling Company for the purpose of showing that the freight rates, in effect on the Southern Pacific vehicular ferries between San Francisco and Oakland, were unreasonable. The existing freight rates by this route were compared with the other rates charged by the Southern Pacific Company in its auto ferry service, particularly the charges for the transportation of passenger automobiles. No extensive or conclusive evidence was presented to show that these freight rates, as compared with other freight rates in effect between points in the same general territory or in effect for other territory under substantially the same conditions, were unreasonable. The mere comparison of a freight rate with a vehicle rate does not, in itself, measure the reasonableness or unreasonableness of either rate and in the absence of evidence as to other controlling circumstances and conditions surrounding the traffic, it does not appear that the Commission is justified in making a finding as to this particular rate.

Based upon the various items set forth in the foregoing discussions of cost of operation, revenues and rate base, the results of operation for the ensuing year that may be reasonably expected if rates are established as set forth in Exhibit "A," attached hereto, may be assumed as follows:

Operating revenue -----	\$1,556,775 00
Operating expense -----	1,067,259 00
Operating income -----	\$489,516 00
Taxes -----	61,189 00
Net income -----	\$428,327 00

These figures are predicated upon the assumption that the reduced rates would have no effect on the total amount of traffic moving, but it is believed that the reduction of rates herein provided, will afford such a substantial relief to the traveling public that the result will be an acceleration of traffic, beneficial to both the public and the company.

The following form of order is recommended:

ORDER.

The Commission having on its own motion instituted an investigation into the reasonableness of rates, service, rules and regulations and practices of the Oakland vehicular ferry service of Southern Pacific Com-

pany, public hearings having been held, the Commission being fully apprised of the facts, the matter being under submission and ready for decision.

It is hereby found as a fact that the rates charged by Southern Pacific Company, as set forth in its local freight tariff 360-K-C. R. C. 2612 and in its local passenger tariff BM-1-C. R. C. 2979, issued June 28, 1921, effective July 1, 1921, are unjust and unreasonable rates for the service rendered to the extent that they differ from the rates and fares set forth in Exhibit "A," attached hereto.

It is hereby further found as a fact that the rates and fares set forth in Exhibit "A," attached hereto, are just and reasonable rates for the service rendered.

Basing its order upon the foregoing findings of fact and other findings of fact as contained in the opinion which precedes this order;

It is hereby ordered, that the Southern Pacific Company be and it is hereby ordered and required to desist on or before July 15, 1925, and thereafter to abstain from publishing, maintaining and applying rates and fares not in accordance with the rates and fares set forth in Exhibit "A," attached hereto and made a part of this order.

It is hereby further ordered, that the Southern Pacific Company be and it is hereby ordered and required to establish on or before July 15, 1925, upon notice to this Commission and to the general public, by not less than three (3) days filing and posting of tariffs in the manner prescribed in section 14 of the Public Utilities Act, and thereafter to maintain and apply the rates and fares prescribed in Exhibit "A" attached hereto and made a part of this order.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of June, 1925.

EXHIBIT "A."

Special Rates for Vehicles (self-propelled) between San Francisco, Cal. (Oakland Vehicle Ferry) and Oakland, Cal. (Oakland pier and Broadway wharf).

Commodity	Rate in cents each except as noted
Ambulances -----	75
Automobiles -----	60
Automobiles with trailers attached, automobile and trailer -----	110
Auto trucks, weighing under 4000 pounds -----	75
Auto trucks, weighing under 4000 pounds, truck and trailer -----	150
Hearse, self-propelling, with or without casket -----	75
Motorcycles, accompanied by party in charge (does not include attendant's fare) -----	20
Tri-cars, accompanied by party in charge (does not include attendant's fare) -----	40

Passenger Fares between San Francisco, Cal. (Oakland vehicle ferry) and Oakland, Cal. (Oakland pier and Broadway wharf).

First-class (continuous trip) between San Francisco, Cal. (Oakland vehicle ferry) and Oakland, Cal. (Oakland pier and Broadway wharf) for passenger (without baggage) (foot passengers not handled from or to Oakland pier)----- \$0 05 (see exception.)

Passenger Fares with Automobile between San Francisco, Cal. (Oakland vehicle ferry) and Oakland, Cal. (Oakland pier and Broadway wharf).

Book ticket between San Francisco (Oakland vehicle ferry) and Oakland, Cal. (Oakland pier and Broadway wharf) covering six one-way trips of automobile and accompanying attendant and twenty-four additional one-way trips for passengers accompanying same automobile----- \$5 10

Exception.—No charge for children under five (5) years of age, when accompanied by parent or guardian.

DECISION No. 15120.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A SPUR TRACK AT GRADE ACROSS SANTA FE AND FRUITLAND AVENUES, AND ACROSS THE TRACKS OF THE LOS ANGELES RAILWAY CORPORATION, IN THE CITY OF VERNON, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

Application No. 1478.

IN THE MATTER OF THE APPLICATION OF THE LOS ANGELES JUNCTION RAILWAY COMPANY FOR PERMISSION TO CONSTRUCT ITS RAILROAD ACROSS CERTAIN PUBLIC STREETS, RAILROAD TRACKS AND STREET RAILWAY TRACKS.

Application No. 10649.

Decided June 30, 1925.

GRADE CROSSING—STEAM RAILROAD.—Granting permission to The Los Angeles Junction Railway Company to construct its tracks at grade across the Harbor branch of the Los Angeles and Salt Lake Railroad, and Downey road, and unimportant streets and spur tracks, that utility is given access as a neutral switching line, to serve the industrial district in Vernon, Los Angeles County, between Downey road and Santa Fe avenue, and south of Vernon avenue.

PUBLIC HAZARD.—Denying the application to cross Fruitland avenue, Pacific boulevard and the Harbor line of The Atchison, Topeka and Santa Fe Railway Company, and granting permission for the other crossings sought, the Commission points the way to the most efficient manner of providing access to this belt line by the Southern Pacific Company without increasing the hazard to the public in any serious degree.

Gibson, Dunn and Crutcher, by *S. M. Haskins* and *H. F. Prince*, for Applicant The Los Angeles Junction Railway Company.

M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

A. F. Halsted and *H. B. Ellison*, for Los Angeles and Salt Lake Railroad Company.

H. G. Weeks, for Los Angeles Railway Corporation.

George A. Damon and *Hugh Pomeroy*, for Regional Planning Commission of Los Angeles County.

E. E. East and *A. H. Vernon*, for Los Angeles County Grade Crossing Committee.

D. DeCosta, Deputy County Counsel, for Los Angeles County.

Frank Karr, for Applicant, Southern Pacific Company.

F. H. Townor, of *Winston, Strawn and Shaw*, Chicago, associate counsel for Los Angeles Junction Railway Company.

Leonard Merrill, for Miss Marian Dodson, landowner in Vernon district.

SHORE, *Commissioner.*

OPINION.

In Application No. 10649, authority is sought to construct a railroad at grade across certain other railroads and public streets in and in the vicinity of Vernon, Los Angeles County, California.

A public hearing was conducted on Application No. 10649 before Examiner Williams at Los Angeles on January 14, 1925, at which time the matter was submitted for decision. The Commission, upon considering the evidence presented, reached the conclusion that the record in that proceeding was not comprehensive enough to give due consideration to the important issues involved, and therefore, in order to obtain additional testimony, made its order on April 6, 1925, setting aside the submission and opening the matter for further consideration. Subsequent to a further hearing on April 15th, the Commission on April 22, 1925, made an order reopening for hearing and further determination the above entitled Application No. 1478, and it was further provided that these two matters be consolidated for the purpose of hearing and determination. Further hearings were held on the consolidated proceedings on May 6 and June 10, 1925.

For convenience, the various railroads involved herein will hereinafter sometimes be referred to as follows: Los Angeles Junction Railway Company, as the Junction Railway; The Atchison, Topeka and Santa Fe Railway Company, as the Santa Fe Railway; the Los Angeles and Salt Lake Railroad Company, as the Salt Lake Railroad; Pacific Electric Railway Company, as the Pacific Electric; Southern Pacific Company, as Southern Pacific; and Los Angeles Railway Corporation, as the Los Angeles Railway.

The Los Angeles Junction Railway Company, Los Angeles Union Stock Yards and Central Manufacturing District are all owned and operated by the same interests. The site of the Los Angeles Union Stock Yards and the Central Manufacturing District comprises an area of about 300 acres of land in the form of a triangle, bounded on the northeast by the Los Angeles River, on the south by Fruitland avenue and on the west by Downey road, all in the unincorporated portion of Los Angeles County. Applicant has installed a system of tracks within this area to afford railroad service to the various industries now located within the Central Manufacturing District and to the Union Stock Yards. This track system has a total length of over seven miles and connects with the Salt Lake Railroad (San Pedro branch) on the Downey road south of the Los Angeles River, and with the Pacific Electric (Whittier line) near Walker street, a short distance west of the Los Angeles River. The Santa Fe Railway has switching privileges over the Salt Lake Railroad line connected to applicant's tracks. The Southern Pacific is the only railroad reaching Los Angeles that does not have

direct access to applicant's track system and the line proposed herein would accord a connection with that railroad. Under present arrangements, stock shipments over Southern Pacific lines destined for the Los Angeles Union Stock Yards are delivered to the rails of the Salt Lake Railroad at a point on the east bank of the Los Angeles River near Alhambra street in the city of Los Angeles. Final delivery to the stock yards is made by the Salt Lake Railroad.

Applicant in Application No. 10649 plans to develop a system of interchange or transfer tracks between its line and the other connecting railroads. This interchange yard is to be located on the south bank of the Los Angeles River and east of Downey road, and it is proposed that the various railroads make deliveries to the interchange yard.

The track, which it is proposed to construct at this time, is desired to serve two purposes:

1. To facilitate industrial development of that portion of Vernon between Downey road and Santa Fe avenue located north of Fruitland avenue, by giving this area the advantages of a neutral belt switching service.

2. To provide a physical connection between the tracks of Junction Railway and the Southern Pacific.

The district traversed by the line proposed in Application No. 10649 is strictly industrial, but is only partially developed at this time. Applicant proposes to operate its railroad as an industrial switching belt line, offering the various industries located along its tracks service on equal terms from each of the three transcontinental railroads reaching Los Angeles.

The line of the proposed railroad extends along Fruitland avenue from a connection with Southern Pacific's spur at a point about 25 feet east of Santa Fe avenue, to a point about 500 feet east of Pacific boulevard, thence in a northerly direction to a point 280 feet south of Vernon avenue and about 2000 feet west of Boyle avenue, thence east parallel to and 280 feet south of Vernon avenue to a connection with applicant's tracks at a point about 250 feet east of Downey road, a total length of approximately two miles. All of the proposed line, with the exception of about 300 feet east of the west line of Downey road, is in the city of Vernon.

It is proposed by applicant that this connection to the Southern Pacific will cross the following public highways at grade:

1. The intersection of Fruitland avenue and Malabar street.
2. The intersection of Fruitland avenue and Pacific boulevard.
3. The northerly half of Fruitland avenue at a point about 500 feet east of Pacific boulevard.
4. Forty-sixth street at a point about 1100 feet east of Pacific boulevard.

5. Boyle avenue at a point 280 feet south of Vernon avenue.
6. Magnolia avenue at a point 280 feet south of Vernon avenue.
7. Downey road at a point 280 feet south of Vernon avenue.

It is also proposed to cross the following railroads and street railroad at grade:

1. Santa Fe Railway (Redondo branch) immediately west of the intersection of Fruitland avenue and Malabar street.
2. Los Angeles Railway (Huntington Park line) at the intersection of Fruitland avenue and Pacific boulevard.
3. Santa Fe Railway (spur track) on Forty-sixth street at a point about 1100 feet east of Pacific boulevard.
4. Salt Lake Railroad (Vernon spur) at a point 280 feet south of Vernon avenue and about 2000 feet west of Boyle avenue.
5. Salt Lake Railroad (San Pedro branch) immediately east of Downey road at a point 280 feet south of Vernon avenue.

At the hearing on April 15th, the Commission indicated that it desired to give careful consideration to the possibility of some other connection between the tracks of the Junction Railway and the Southern Pacific's line which would afford reasonable access to the said transfer tracks to be constructed by applicant, and at the same time involve less public hazard than would be incident to the construction of the proposed line. It was suggested that consideration be given the possibility of constructing a connection between the Junction Railway's tracks and the Southern Pacific's Santa Ana branch by extending applicant's existing track in a southerly direction immediately west of the Los Angeles River.

Application No. 1478 was a proceeding filed with the Commission, January 2, 1915, by Southern Pacific Company, wherein authority was sought to construct a spur track at grade across Santa Fe and Fruitland avenues and across the tracks of the Los Angeles Railway in the city of Vernon. On January 18, 1915, the Commission made its order (Decision No. 2084), granting permission to construct said spur track. It is this track of the Southern Pacific with which the Junction Railway, in Application No. 10649, proposes to connect at Fruitland and Santa Fe avenues.

At the hearing May 6th applicant, in Application No. 10649, asked for a preliminary order granting authority to construct that portion of its proposed line from a connection to its existing track system to the north line of Fruitland avenue, pending the final determination of the original application. The testimony shows there are some enterprises which desire to build industries along this portion of the line as soon as railroad service is assured, and that the company has the material on hand to build the line and desires to do so as soon as permis-

sion can be had. This portion of the line would involve crossing Forty-sixth street, Boyle avenue, Magnolia avenue and Downey road, and also Santa Fe Railway (spur on Forty-sixth street), Salt Lake Railroad (Vernon spur) and Salt Lake Railroad (San Pedro branch), all referred to above.

Applicant stated that notwithstanding the importance of Downey road as a highway artery, and the possibility that it might be required to construct its track other than at grade at the present or some future time, and the further possibility that the Commission might deny authority to construct the various proposed grade crossings on Fruitland avenue, thereby preventing a connection with Southern Pacific's track by this route, it still would desire to proceed with the construction of that portion of the proposed track between a connection to its tracks east of Downey road and the north line of Fruitland avenue as soon as authority were granted.

Los Angeles County's Exhibit No. 1 is a map prepared by the County Regional Planning Commission showing the existing and proposed major highways serving the Vernon district and general vicinity of the city of Los Angeles. This map shows that Downey road is now an important highway artery and future highway needs will require that its relative importance be maintained.

Los Angeles County's Exhibit No. 2 shows that the average traffic on Downey road at the point of proposed crossing amounts to nearly 8000 vehicles per day.

The only crossings of importance that would be involved in the construction of that portion of the proposed line north of Fruitland avenue would be that at Downey road and the Salt Lake Railroad (San Pedro branch). The public hazard at these crossings would not be as serious if only that portion of the line north of Fruitland avenue were constructed, thus limiting the operations to switching moves, as it would be if the proposed line were extended to connect with the Southern Pacific's spur at Fruitland and Santa Fe avenues, since the effect of making the latter connection would change the character of the Junction Railway track from an industrial spur to the equivalent of a branch line railroad.

From the evidence at hand it now appears that public convenience and necessity justify the granting of permission to construct that portion of the proposed line north of Fruitland avenue as applied for, in a preliminary order, provided adequate protection is afforded at the various grade crossings. It may be that the Commission will, in the future, find that public convenience and necessity require that the grades be separated between Downey road and the proposed railroad, if constructed as authorized herein. Certainly such an arrangement would

be given careful consideration at this time if authority were to be granted for the construction of the entire proposed line.

Testimony presented by Southern Pacific at the hearing held May 6th shows that after a careful study, the company decided the most practical and economical method of obtaining a connection to the said Central Manufacturing District was by way of Fruitland avenue, as proposed in Application No. 10649. Although the Southern Pacific Company now has joint use of track on the Salt Lake Railroad's line on the east bank of the Los Angeles River between Alhambra avenue and Butte street, a distance of about $2\frac{3}{4}$ miles, the Southern Pacific has not heretofore attempted to obtain running rights over the Salt Lake Railroad's line from Butte street to applicant's track system, which would involve extending the present joint track operation of these two companies an additional distance of about $1\frac{3}{4}$ miles. The testimony shows that the approximate distance between the transfer tracks of the Southern Pacific and Salt Lake Railroad east of the Los Angeles River near Alhambra avenue and the said transfer tracks to be built at Los Angeles Union Stock Yards by way of the Salt Lake Railroad, is $4\frac{1}{2}$ miles, while the distance between these two points by way of the proposed Fruitland avenue line would be $7\frac{3}{4}$ miles, and by way of a connection to Southern Pacific (Santa Ana line) would be $15\frac{1}{4}$ miles.

Counsel for the Salt Lake Company stated that although his company did not look with favor upon extending to Southern Pacific running rights over that portion of its line between Butte street and the said stock yards, perhaps some acceptable plan could be worked out for such an arrangement. It appears to the Commission that a plan whereby the Southern Pacific will have running rights over the Salt Lake Railroad's line between Butte street and a connection to applicant's track system, would provide the most favorable connection between the Southern Pacific and applicant's present track system of any of the routes now under consideration, in that this route would be more direct and at the same time would not create any additional grade crossings of highways and railroads. The superiority of this route becomes more apparent when the important use of the connection to deliver livestock to the stockyards is considered, together with the fact that substantially more than half of all the livestock delivered to the stock yards reaches Los Angeles on the rails of the Southern Pacific.

Furthermore, connecting the Junction Railway through Fruitland avenue to the Southern Pacific will not only involve the construction of the track over the important traffic artery of Pacific avenue's double track line of the Los Angeles Railway and the Harbor branch of the Santa Fe, but it would materially increase the hazard and delay at the existing grade crossing of the Southern Pacific's spur track over Santa

Fe avenue and the tracks of the Los Angeles Railway. The routing of Southern Pacific trains, through this connection, would also materially increase the hazard and delay at the proposed crossing of the Junction Railway's track over Downey road and the Harbor branch of the Salt Lake Railroad.

The necessity of providing access for the Southern Pacific Company to reach the interchange yard of the Junction Railway is not questioned. When there is a choice for this access as between a route which is short, direct and with only one grade crossing, for which negotiations for elimination are already under way and another route which is circuitous and involves hazard at several important grade crossings, both of highways and railroads, there can be no other conclusion reached but that the first described route should be used. It is therefore expected that the Southern Pacific will make an earnest effort to secure from the Salt Lake Railroad a satisfactory agreement in this matter.

The denial of that portion of the application providing for a connection to the Southern Pacific at Fruitland avenue will be without prejudice to the applicant at a later time coming before this Commission for a renewal of its request, should the negotiations between the Southern Pacific and the Salt Lake Railroad fail in a successful culmination, and the determination will not be made at this time whether or not grade separations would be required at Santa Fe avenue, Pacific avenue and Downey road, should that connection ultimately be permitted.

The proper protection to be provided at each of the grade crossings of public highways and railroads involved in that portion of the proposed line north of the north line of Fruitland avenue will now be discussed in detail.

Applicant has entered into certain agreements with each of the other railroads affected, governing the construction, maintenance and operation of the various railroad grade crossings involved herein. These agreements provide that the respective crossings shall be built and maintained at the sole expense of the Junction Railway, and in the event an interlocking switch and signal system is required at any of the respective grade crossings proposed herein, either by the railroad affected or by the Railroad Commission of the State of California, or any other competent governmental authority, such interlocking switch and signal system shall be installed at the sole expense of the Junction Railway and the maintenance thereafter shall be borne equally by applicant herein and the respective railroad affected.

Forty-sixth street crossing at a point about 1100 feet east of Pacific boulevard.

Forty-sixth street is not improved at this time, the only traffic on it at present being that to and from the Santa Fe Railway spur line on

Forty-sixth street, which is used as a team track. The standard crossing sign appears adequate for the protection of this crossing for the present.

Crossings at Boyle avenue and Magnolia avenue, respectively.

The physical conditions which affect public hazard at each of these crossings appear, for all practical purposes, to be similar. Each street has a dirt roadway and carries only a small volume of local vehicular traffic. The view at each crossing is fairly good at this time. The proposed line is immediately north of the Salt Lake Railroad's so-called "Vernon spur." Any protection provided here should affect the Salt Lake Railroad's line as well as that of applicant. Under the conditions it appears that the usual crossing sign would be adequate for the present.

Downey road crossing.

Downey road is an important paved county road, which, as shown above, carries a substantial volume of vehicular traffic, and its importance will undoubtedly increase in the future. The view at this crossing is fairly good at present. It would seem that as long as trains on applicant's track stop and flag over the Salt Lake Railroad's line, as hereinafter provided, no special protective device need be installed to protect the vehicular traffic on Downey road, as train movements over this highway would undoubtedly be at slow rates of speed. However, after the railroad crossing is protected by an interlocking system, applicant should install an automatic flagman for the protection of the Downey road crossing.

Santa Fe Railway (Spur track on Forty-sixth street).

This is a rather unimportant spur track of the Santa Fe Railway which is now being used only as a team track in the vicinity of the proposed crossing. At one time this spur track served the General Petroleum Company's property south of Vernon avenue and west of Boyle avenue. This property, however, has been converted into a tank farm operated by pipe line connections and requires no further railroad service. Inasmuch as this spur track is used but very little beyond the point of the proposed crossing, it appears that the installation of a derail on the Santa Fe Railway's line immediately west of the crossing will provide adequate protection.

Salt Lake Railroad (Vernon spur).

This crossing is over the Salt Lake Railroad's so-called "Vernon spur" at a point approximately 2000 feet west of Boyle avenue. It appears that the train movements on each of the railroads involved will be infrequent and at slow rates of speed at this point. The view, how-

ever, is seriously impaired by buildings. It appears that the proper regulation to prescribe for the protection of this grade crossing is to require all trains on each line to stop before passing over the crossing.

Salt Lake Railroad (San Pedro branch).

This crossing involves the Salt Lake Railroad's branch line to the harbor, over which there are normally six passenger trains and six freight trains operated per day. It is estimated that these passenger trains travel at a maximum rate of about twenty miles per hour in the vicinity of the proposed crossing. This crossing should ultimately be protected by a first-class interlocking plant and pending the installation of such interlocker protection, all trains on applicant's line should be required to stop and flag over the crossing, and the speed of the trains of the Salt Lake Railroad should be restricted to a maximum of ten (10) miles per hour. The most practical way of providing interlocking protection here awaits the final determination of certain modifications in the system of tracks adjacent to the proposed crossing. There is some question as to whether it would be more practical to protect this crossing by remote control from the Hobart tower, located about 2400 feet to the north, after it is electrified; or to construct an independent interlocker to control only the tracks in the immediate vicinity.

After a consideration of all of the evidence at hand it appears that public convenience and necessity do not justify the granting of the authority applied for to construct the proposed crossings on Fruitland avenue, as there appears to be a more practical way for the Southern Pacific Company to gain access to applicant's track system, provided it can obtain joint track rights from the Salt Lake Railroad, as discussed above, under reasonable terms.

Referring to Application No. 1478, the evidence shows that during the past six months the average shipments from the industry located at the northeast corner of Santa Fe and Fruitland avenues, which is served by the spur track authorized by the Commission's Decision No. 2084, in Application No. 1478, referred to above, has amounted to 22 carloads per month. It now appears that if this railroad traffic does not increase, there is no necessity at this time to modify the Commission's order in the matter. The order reopening this proceeding should therefore be dismissed.

The following form of order is recommended:

ORDER.

Los Angeles Junction Railway Company having applied to the Railroad Commission for permission to construct and operate its railroad at grade across certain public highways and railroads and a street railroad in, and in the vicinity of, the city of Vernon, Los Angeles County,

California, public hearings having been held, the Commission being now fully advised and ready to issue its order:

It is hereby found as a fact that public convenience and necessity require the construction and operation of a railroad to be operated as an industrial switching belt line from a connection to applicant's existing track system east of Downey road and south of the Los Angeles River, to the north line of Fruitland avenue along the line proposed in this application; therefore,

It is hereby ordered, that the Los Angeles Junction Railway be and it is hereby authorized to construct its track at grade across the following highways:

1. Forty-sixth street at a point about 1100 feet east of Pacific boulevard.
2. Boyle avenue at a point 280 feet south of Vernon avenue.
3. Magnolia avenue at a point 280 feet south of Vernon avenue.
4. Downey road at a point 280 feet south of Vernon avenue.

The first three named highways being in the city of Vernon and the fourth in the unincorporated portion of the county of Los Angeles, all as shown on the map accompanying the application; said crossings to be constructed subject to the following conditions, namely:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said streets now graded, with the tops of rails flush with the pavement, and with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) If and when an interlocking plant is installed for the protection of the grade crossings of applicant's line and that of the Salt Lake Railroad (San Pedro branch), applicant shall install an automatic flagman for the protection of said crossing of Downey road. Said automatic flagman shall be installed and maintained at the sole expense of applicant, and shall be of a type and installed in accordance with plans or data approved by this Commission. Pending the time said automatic flagman is installed, a member of the train crew shall precede the trains over this crossing for the purpose of warning approaching highway traffic.

It is hereby further ordered, that the Los Angeles Junction Railway Company be and it is hereby authorized to construct its track at grade

across the following railroads in, or in the vicinity of, the city of Vernon, Los Angeles County, California:

Crossing No. 1. Santa Fe Railway (spur track on Forty-sixth street) at a point about 1100 feet east of Pacific boulevard.

Crossing No. 2. Salt Lake Railroad (Vernon spur) at a point 280 feet south of Vernon avenue and about 2000 feet west of Boyle avenue.

Crossing No. 3. Salt Lake Railroad (San Pedro branch) on Downey road at a point 280 feet south of Vernon avenue.

All as shown on the map attached to the application; said grade crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be protected as follows:

Crossing No. 1. A derail shall be installed at the expense of applicant on the Santa Fe Railway's spur line at least 100 feet west of said crossing. Said derail shall be maintained at the expense of applicant.

Crossing No. 2. All trains, motors, engines or cars, both on applicant's line and the Salt Lake Railroad, shall come to a stop and not proceed over the crossing until it is ascertained that it is safe so to do.

Crossing No. 3. This crossing shall be protected by a first-class interlocking plant, and until such interlocking plant is installed, all trains, motors, engines and cars on applicant's line shall be brought to a stop before crossing the tracks of the Salt Lake Railroad and not proceed thereover until the conductor or other competent employee has gone upon the crossing to ascertain if it is safe to cross; and all trains, motors, engines and cars on the said Salt Lake Railroad shall proceed over said crossing at a rate of speed not in excess of ten (10) miles per hour. If and when an interlocking plant is installed it shall be at the sole expense of applicant in accordance with detailed plans which shall be submitted to and have the approval of this Commission. The maintenance of said interlocking plant shall be borne one-half by applicant and one-half by the Salt Lake Railroad.

It is hereby further ordered, that the authority herein granted to the Los Angeles Junction Railway Company is subject to the following conditions, viz:

(1) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of each and all of said crossings authorized herein.

(2) If said crossings, or any of them, shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(3) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings authorized herein, as to it may seem right and proper, and to revoke its permission, if in its judgment, the public convenience and necessity demand such action.

It is hereby further ordered, that the portion of Application No. 10649, wherein permission is sought to construct certain grade crossings on and along Fruitland avenue, be and it is hereby denied without prejudice.

It is hereby further ordered, that the order reopening for hearing and further determination, the above entitled Application No. 1478, be and it is hereby dismissed, and that the prior order of the Commission (Decision No. 2084) be and it is hereby affirmed.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of June, 1925.

DECISION No. 15121.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOS ANGELES FOR AN ORDER GRANTING PERMISSION TO THE CITY OF LOS ANGELES TO CONSTRUCT A RAILROAD TRACK IN ANAHEIM STREET ACROSS A CERTAIN TRACK OF THE PACIFIC ELECTRIC RAILWAY COMPANY, AT GRADE, AND DETERMINING AND PRESCRIBING THE MANNER AND THE TERMS OF INSTALLATION, OPERATION, MAINTENANCE, USE, AND PROTECTION OF SUCH CROSSING.

Application No. 9712.

Decided June 30, 1925.

GRADE CROSSING—STEAM RAILROAD—TEMPORARY CROSSING.—Revoking prior order of the Commission, whereby the Board of Harbor Commissioners of Los Angeles was granted permission to construct its municipal harbor railway at grade temporarily across Anaheim road in the Wilmington district for the purpose of effecting a physical connection with the tracks of The Atchison, Topeka and Santa Fe Railway Company and granting a new temporary permission for a period of two years under certain conditions. These conditions include the construction of an interlocking plant for the protection of the crossing; the removal of the tracks at the expiration of the permit; or the finding by the Commission in a supplemental order that the Dominguez Creek viaduct is completed sufficiently to provide access to the Los Angeles harbor for The Santa Fe and Los Angeles Harbor Railway, without crossing Anaheim road at grade.

Jess E. Stephens, City Attorney, *Clyde M. Leach*, Assistant City Attorney and *Milton Bryan*, Deputy City Attorney, for the City of Los Angeles and the Los Angeles Harbor Commission.

A. S. Halsted and *Fred E. Pettit*, for the Los Angeles and Salt Lake Railroad Company.

46—36855

Frank Karr, for the Pacific Electric Railway Company.

E. W. Camp, Hill and Morgan, and *M. W. Reed*, for The Atchison, Topeka and Santa Fe Railway Company.

Harry J. Bauer, of *Bauer, Wright and McDonald*, *W. K. Barnard*, *Burt Heinley*, and *F. P. Cole*, for the Greater Harbor Committee of Two Hundred of Los Angeles Chamber of Commerce.

E. E. East, for the Los Angeles County Grade Crossing Committee.

Samuel Storow, for the Municipal League of Los Angeles.

John R. Berryman, for Automobile Club of Southern California.

George A. Damon, for the Regional Planning Commission.

Lou Johnson, Secretary, for the Wilmington Chamber of Commerce.

SHORE AND DECOTO, *Commissioners*.

SUPPLEMENTAL OPINION.

A petition was filed by the Greater Harbor Committee of Two Hundred of the Los Angeles Chamber of Commerce on May 5, 1925, requesting that the permission heretofore granted by the Commission in its Decision No. 13663 in the above entitled proceeding be vacated, annulled and set aside. The Commission, on May 9, 1925, ordered that this matter be reopened and further hearings were had on May 14 and June 11, 1925.

The above entitled application was originally filed on January 22, 1924, the applicant being the city of Los Angeles by its board of harbor commissioners. The purpose of the application was to enable applicant to construct its tracks at grade across Anaheim road at McFarland street in the Wilmington district and at grade across the tracks of Pacific Electric Railway Company at Anaheim road in order to make a connection with the tracks of the Santa Fe and Los Angeles Harbor Railway Company (a subsidiary of The Atchison, Topeka and Santa Fe Railway Company) north of Anaheim road thereby enabling the Santa Fe to have access via this route into the Harbor district in accordance with the provisions of an agreement entered into, dated August 4, 1923, between the Santa Fe and Los Angeles Harbor Railway Company and the board of harbor commissioners of the city of Los Angeles.

A temporary permit for the proposed crossing for a period of two years, was granted by the Commission by its order dated June 9, 1924, (Decision No. 13663) in which the Commission stated:

The construction of a railroad at grade across a thoroughfare with a traffic of more than 12,500 vehicles daily is a very serious matter and should not be permitted if there can be found any reasonable plan of avoiding or eliminating it. In this case not only has a plan been found whereby this grade crossing can be eliminated, but the applicant proposes to proceed as rapidly as possible to put that plan in effect and requests authority for the proposed grade crossing only as a temporary expedient until the legal and physical obstacles of the permanent plan can be overcome.

The plan referred to in that language was a proposal to construct a viaduct on Anaheim road over Dominguez creek, approximately 4550 feet east of the proposed grade crossing on Anaheim road at McFarland street.

At the hearings had on May 14th, and June 11th, of this year, a voluminous record was adduced much of which was a repetition of the record at the prior hearing in this proceeding. A description of the conditions is quite fully discussed in the prior decision of the Commission above referred to and it need not be repeated here.

The conditions appear to have been changed from their status a year ago only by the following important factors:

(1) There has been filed the joint application of the county of Los Angeles, city of Los Angeles, city of Long Beach, board of harbor commissioners of the city of Los Angeles and Los Angeles and Salt Lake Railroad Company (Application No. 11048) for an order authorizing the construction of a viaduct over Dominguez creek on the Anaheim road and approving an agreement of the above mentioned parties relative to the apportionment of the cost of said viaduct. The Commission in Decision No. 14919, granted this application approving the plans of the viaduct submitted and apportioning the cost of the construction in accordance with the agreement reached by the parties.

(2) An agreement, dated April 16, 1925, between the city of Los Angeles by its city council and The Atchison, Topeka and Santa Fe Railway Company. In this agreement the Santa Fe agrees to pay the city of Los Angeles one-eighth of the cost of the Dominguez slough viaduct, providing such sum shall not exceed \$61,000 and providing one duct or bay of said viaduct be set aside for the Santa Fe's use as an entrance to the harbor if the Dominguez slough plan is finally adopted and made effective for all railroad lines. Santa Fe further agrees to use the Dominguez slough route when all rail lines entering the harbor use that route thereby removing the existing grade crossings on Anaheim road. It is further agreed that the above mentioned \$61,000 is to be refunded by the city of Los Angeles to the Santa Fe at the expiration of seven years if the Dominguez slough route is not finally adopted by the other railroads within that time. It is also agreed that the said \$61,000 may, under certain circumstances, be used for certain other purposes as, for example, to apply on the Santa Fe's portion of the elimination of the proposed grade crossing at Anaheim road and McFarland street.

(3) On April 21, 1925, the city council of the city of Los Angeles by resolution instructed the city attorney to at once commence the necessary proceedings looking towards the early vacation of grade crossings on Anaheim road by Southern Pacific Company and Pacific Electric Railway Company.

(4) There was introduced through the testimony of Mr. Charles J. Colden, president of the board of harbor commissioners, the applicant herein, a resolution of the board, dated May 18, 1925, requesting that

e Railroad Commission cancel without option, the temporary permit for the grade crossing on Anaheim road at McFarland street which had been granted on its own application by the Commission in Decision No. 13663.

Mr. Colden stated that his board had now committed itself to an expenditure of \$70,000 in the construction of the Dominguez slough viaduct and that they did not want now to spend an additional \$75,000 on a grade crossing at Anaheim road and McFarland street, which under the provisions of the temporary permit granted would only be available for about a year. Moreover, they did not want to join in a grade crossing which might later involve an additional large expenditure on their part for the separation of grades at that point. He further stated that should a permanent route of entrance to the harbor be made by the Santa Fe by way of McFarland street such a plan would interfere with the efficiency of the operations within the harbor district.

It is a somewhat anomalous situation in this proceeding to find the applicant, the board of harbor commissioners, by formal resolution and by the testimony of its president, requesting the revocation of the temporary permit previously granted by the Commission on its application. However, as no formal petition for the withdrawal of its application was presented by the applicant, the hearing was proceeded with to a conclusion in order that all available information and facts might be in evidence so that the issues might be decided upon their merits.

The city council of the city of Los Angeles passed a resolution approving the granting of the temporary permit for the crossing of Anaheim road at McFarland street by the Railroad Commission but this resolution was not supported by any oral testimony. Mr. Jess E. Stephens, city attorney, appeared on behalf of both the city council and the board of harbor commissioners and stated that he did not take a position of support of one recommendation as against the other but desired only to present all the facts in evidence that were available.

Testimony was given by Mr. R. B. Ball, the chief engineer of the Santa Fe coast lines to the effect that his company did not want to incur large expenditure to make use of the Dominguez slough route into the harbor district because of alleged hazard of overflow, in time of flood, on the flood control channel, in which event it was claimed the railroads using that route would be subject to interruption of traffic during such flood conditions. Mr. Ball, however, indicated that if all of the other railroad lines used the Dominguez creek viaduct route, his company would be willing to take its chances with the rest in respect to the flood hazard, but that he was unwilling to recommend that his company alone should underwrite the risk. A statement was filed by Mr. Charles T. Leeds, consulting engineer of the Committee of Two Hundred, contradicting Mr. Ball's theory of hazard of overflow at flood

times and calling attention to the voting by the county of Los Angeles of two bond issues, one for \$4,500,000 and one for \$35,000,000, for flood control and conservation, that the construction program for flood control above Dominguez Junction is well under way, and that these flood control plans have been approved by the U. S. Board of Engineers for Rivers and Harbors. Witnesses for the Santa Fe pointed out that even though they started at this time to secure a connection to the harbor by the Dominguez slough route no less than two years would elapse before the necessary right of way could be secured and the physical construction be completed and urged that in the meantime it be given temporary access to the harbor. All parties joined in expressing their common desire that the Santa Fe be given access to the harbor by some route and the entire proceeding broadly resolves itself into a determination of the manner in which that access should be permitted.

The Commission must determine first, what weight should be attached to the position taken by the applicant in requesting a cancellation of the temporary permit heretofore granted on its application for a grade crossing over Anaheim road at McFarland street.

Ordinarily it would appear that the case should be dropped at this point and the temporary permit immediately set aside, revoked and annulled; but in the present instance although the board of harbor commissioners on behalf of the city of Los Angeles is the applicant, the evidence shows that The Atchison, Topeka and Santa Fe Railway Company or its subsidiary has an important interest in the case, and that the public convenience and necessity is involved in securing transportation to and from the harbor district of Los Angeles in connection with the Santa Fe system. Accordingly the Commission is disposed to consider the situation as broadly as the evidence will permit, and in its order will endeavor to provide a means of meeting the requirements of public convenience and necessity, and of enabling the Santa Fe to serve the harbor district in harmony with the plans of the board of harbor commissioners, the applicant herein, provided the applicant will accept a temporary permit in accordance with the terms and conditions therein stated.

The evidence presented by the Greater Harbor Committee of Two Hundred, including the testimony of its vice president, Maynard McFie, the testimony of Charles J. Colden, the president of the board of harbor commissioners, the testimony of Robert M. Allan, the chairman of the public utilities committee of the city council of the city of Los Angeles, all goes to show that responsible city authorities and business organizations have given great thought in working out a plan of harbor development that will meet the needs of the harbor for many years to come. The development of the Dominguez slough viaduct and the plan of bringing the railroads into the Harbor

listrict by that route is one of the most important steps in that lirection. This Commission should avoid, so far as possible, issuing ny order which would be utilized by any railroad company, and articularly by a railroad company seeking its first entrance into he harbor district, to frustrate the plans of harbor development hich have been worked out by the city authorities in conjuncion with responsible public organizations. The Santa Fe should be repared to use the Dominguez viaduct route as soon as the viaduct has een completed, which has been estimated by its own representatives to equire about two years' time. The Santa Fe, however, appears to be nwillig to agree that it will use the Dominguez slough viaduct route nless and until the Southern Pacific Company and the Pacific Electric Railway Company also use that route. This Commission can not be overned in its opinion by the terms of the Santa Fe's policies as affected by the actions of some other and competitive railroads wherein matter of public convenience and necessity is at stake. Moreover, he Southern Pacific Company and the Pacific Electric Railway Comany have been operating into the harbor across Anaheim road at grade or a period of years and it is not reasonable that the method of access y a new railroad now seeking access for the first time should be deterined entirely by the operations of railroad companies long established n that district. It is not appropriate to raise the question at this time, uch less to decide it, as to whether or not the Railroad Commission an or should exercise jurisdiction over the removal of the Southern acific Company or the Pacific Electric Railway Company to the Domnguez slough viaduct. The manner in which certain other railroads perate across Anaheim road to reach the harbor certainly is not a ufficient reason or basis for this Commission authorizing new addional hazardous conditions as applied to the operations of a railroad ow seeking entrance to the harbor when a more desirable and less azardous route is available. On the other hand there would not ppear to be any justification for refusing to permit temporary access y the Santa Fe to the harbor by the McFarland street route pending he time that a more satisfactory means of access can be physically eveloped provided that the granting of such a permit can be surounded by satisfactory guarantees as to the fulfillment of the terms nd intent of the Commission's order, and provided also that the govring body of the Harbor district, the board of harbor commissioners, he applicant herein, has a reasonable opportunity to consider the terms n which it is willing to accept a permit to lay its tracks across Anaheim oad for the use and benefit of the Santa Fe Railway Company.

In view of all the evidence in this case, it appears that the temporary permit heretofore granted in Decision No. 13663 should be set side, revoked and annulled, and that in its place a temporary permit

should be granted to the applicant, the city of Los Angeles through its board of harbor commissioners, for a period of two years from the date hereof or to such other date as the Commission may find by a supplemental order as the time at which the Dominguez slough viaduct shall have been completed to a point which will permit of the operation of a railroad by the Santa Fe Company over that route, such temporary permit being made subject to its acceptance by the applicant and to the filing of certain stipulations and agreements on the part of the applicant and of the Santa Fe as would tend to insure the fulfillment of the terms and intent of this Commission's order, and of the abolition of the crossing as provided.

ORDER.

Petition having been filed by the Greater Harbor Committee of Two Hundred of the Los Angeles Chamber of Commerce requesting that order heretofore made by the Commission in its Decision No. 13663 in the above entitled matter, be vacated, annulled and set aside, the Commission having reopened said proceeding for further hearing and determination, further hearings having been had, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that the order of this Commission heretofore made in its Decision No. 13663, dated June 9, 1924, be and it is hereby set aside, revoked and annulled; and

It is hereby found as a fact that public convenience and necessity require the establishment of temporary crossings at grade at the points applied for in this application hereinbefore mentioned, pending the construction of a viaduct on Anaheim road over Dominguez creek and the completion of said viaduct to a point which will permit of the operation of a railroad thereunder by The Atchison, Topeka and Santa Fe Railroad Company or its subsidiary, the Santa Fe and Los Angeles Harbor Railway Company, subject to the terms and conditions provided herein; therefore,

It is hereby further ordered, that permission be and it is hereby temporarily granted to the city of Los Angeles by its board of harbor commissioners, in the county of Los Angeles in the State of California, to construct and maintain a railroad track at grade across L street, Young street, K street, Grant street, J street and Anaheim road as shown on the map attached to the application, and to temporarily construct a railroad track at grade crossing tracks of the San Pedro line of the Pacific Electric Railway Company at McFarland street and Anaheim road, near Wilmington in the city of Los Angeles, county of Los Angeles, State of California, as shown on the map attached to the application, said crossings to be constructed subject to the following conditions and not otherwise:

(1) The board of harbor commissioners of said city of Los Angeles shall file its acceptance of the temporary permission herein granted for the construction of said crossings, within ninety (90) days from the date of this order.

(2) The board of harbor commissioners of the city of Los Angeles shall file with this Commission within ninety (90) days of the date of his order a joint stipulation and agreement executed by the city of Los Angeles, by its board of harbor commissioners, and by The Atchison, Topeka and Santa Fe Railroad Company and its subsidiary, the Santa Fe and Los Angeles Harbor Railway Company, whereby said city of Los Angeles, by its board of harbor commissioners, shall agree to remove its tracks from, and abolish, said temporary crossings over Anaheim road upon the expiration of the term for which this temporary permit is granted, and whereby The Atchison, Topeka and Santa Fe Railroad Company and the Santa Fe and Los Angeles Harbor Railway Company shall agree not to oppose directly or indirectly the removal of said tracks from and the abolition of said crossings over Anaheim road at the expiration of the term for which this temporary permit is granted. Said joint stipulation and agreement shall include a satisfactory statement of some plan, method or condition, whereby the business developed by The Atchison, Topeka and Santa Fe Railroad Company, or its subsidiary, the Santa Fe and Los Angeles Harbor Railway Company in the harbor district by its operations under the provisions of said temporary permit shall be adequately taken care of hereafter and whereby the said The Atchison, Topeka and Santa Fe Railroad Company, or its subsidiary, the Santa Fe and Los Angeles Harbor Railway Company will, upon the abolition of the crossings temporarily authorized herein, continue to have access to the harbor district of the city of Los Angeles without crossing Anaheim road at grade.

(3) The entire expense of constructing said crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public shall be borne by the applicant.

(4) Said crossings of said streets shall be constructed of a width and type of construction to conform to those portions of said streets now graded with the top of rails flush with the pavement and with grade of approach not exceeding two per cent (2%); shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(5) Said crossing of Anaheim road shall be protected by crossing gates to be installed at the expense of the applicant. The cost of maintaining of said gates thereafter shall be borne equally by applicant and the Pacific Electric Railway Company.

(6) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(7) Said crossings at the junction points of the existing municipal railway tracks with the Pacific Electric Railway Company's San Pedro line and the junction of Pacific Electric Railway Company's Wilmington-Long Beach line with its San Pedro line, shall be protected by an interlocking plant built substantially in accordance with the plan (C. E. 6598) filed in this proceeding as Pacific Electric Railway Exhibit No. 1.

(8) Said interlocking plant shall conform to Commission's General Order No. 33.

(9) The cost of installation of said interlocking plant shall be borne as follows: Forty-five per cent (45%) by the Applicant and fifty-five per cent (55%) by Pacific Electric Railway Company.

(10) Maintenance of said interlocking plant shall be based on such an agreement as may be arrived at by the parties in interest, a copy of which shall be filed with the Commission. If interested parties are unable to agree, division of the maintenance shall be apportioned by this Commission in a supplemental order.

(11) The highway crossing gates hereinbefore ordered shall be operated from the interlocking tower.

(12) The authorization herein granted for the installation of said crossings shall lapse and become void two (2) years from the date of this order, or at such date prior to that time at which this Commission shall find and indicate in a supplemental order that the Dominguez creek viaduct shall have been completed to a point which will permit the operation of a railroad by The Atchison, Topeka and Santa Fe Railway Company, or its subsidiary, the Santa Fe and Los Angeles Harbor Railway Company over that route; whereupon said crossings shall be abolished by applicant, municipal tracks shall be removed from Anaheim road by applicant and the necessary functions for this track shall be removed from the interlocking tower, which shall thereafter be maintained, including the crossing gates, by Pacific Electric Railway Company.

(13) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and construction of said crossings as it may seem right and proper, and to revoke this permission if, in its judgment, public convenience and necessity demand such action.

The foregoing opinion and order are approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

This order shall become final and effective upon the fulfillment of the conditions numbered (1) and (2) above.

For all other purposes the effective date of this order shall be twenty) days from and after the date hereof.

Dated at San Francisco, California, this thirtieth day of June, 1925.

DECISION No. 15122.

THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY COVERING THE CONSTRUCTION OF A PROPOSED THIRTEEN-INCH NATURAL GAS LINE, EXTENDING FROM A POINT IN THE VENTURA RIVER OIL FIELD, VENTURA COUNTY, TO A POINT IN THE COUNTY OF LOS ANGELES, TYING IN WITH APPLICANT'S EXISTING SYSTEM IN LOS ANGELES COUNTY, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE RIGHTS IN THE COUNTY OF LOS ANGELES, AND IN THE CITIES OF SAN FERNANDO, BURBANK, GLENDALE AND LOS ANGELES, UNDER FRANCHISES APPLIED FOR BY APPLICANT.

Application No. 11046.

Decided July 2, 1925.

CERTIFICATE—GAS UTILITY—PIPE LINE.—Southern Counties Gas Company certificate authorizing construction and operation of 13-inch pipe line for the transportation of natural gas from the Ventura River oil field to a connection with 10-inch pipe line of Los Angeles Gas and Electric Corporation at Glendale, which connects with applicant's existing pipe line at Montebello.

ARTICLE.—Natural gas transported through said pipe line not to be delivered to Los Angeles Gas and Electric Corporation for resale, except under such conditions as may be specifically approved by the Commission.

by *M. Edwards*, for Applicant.

W. Overton, for Los Angeles Gas and Electric Corporation, an interested party.

W. Gordon and *Thomas J. Reynolds*, for Southern California Gas Company and for Midway Gas Company, Protestants.

W. E. Veys, Commissioner.

OPINION.

Southern Counties Gas Company of California asks the Railroad Commission to certify that the present or future public convenience and necessity require the construction of a pipe line for the transmission of natural gas from the Ventura River oil fields to connect with applicant's existing system in Los Angeles County and the exercise, in connection and operation of such a line, of franchise rights intended or to be granted by the county of Los Angeles and the cities of San Fernando, Burbank, Glendale and Los Angeles.

It appears from the evidence presented at a public hearing held on June 1, 1925, that applicant has, for some time past, been purchasing natural gas in the Ventura fields; that the supply of gas available in these fields has greatly increased and that under its contract for purchase, applicant must immediately accept, or else forfeit, the additional

supply of gas. It has also been shown by the testimony and by the investigations that have been carried on by the Commission's engineers that the production of natural gas in the existing fields in the Los Angeles basin is beginning to decline and that additional supplies must sooner or later be brought in if future requirements are to be met.

Applicant has commenced the construction of a welded steel pipe line approximately thirteen inches in diameter from Ventura to Glendale where connection will be made with an existing ten-inch pipe line of Los Angeles Gas and Electric Corporation which already connects with applicant's system at Montebello. Use of this pipe line of Los Angeles Gas and Electric Corporation will be by agreement between the two companies. The cost of the new line is estimated at approximately \$1,304,000, and its capacity at a maximum of twenty-four million cubic feet per day under four hundred fifty pounds per square inch initial pressure.

The application is protested by Midway Gas Company and Southern California Gas Company on account of certain existing contractual relations. The Midway and Southern California Companies are now supplying large quantities of natural gas to Los Angeles Gas and Electric Corporation under contracts which give Los Angeles Gas and Electric Corporation priority over industrial consumers of the two supplying companies. These two companies express the fear that in the summer time, when the supply of natural gas exceeds the demand, Los Angeles Gas and Electric Corporation will purchase gas from Southern Counties Gas Company in preference to the Midway and Southern California companies, while during the winter, when the demand for gas exceeds the supply, Los Angeles Gas and Electric Corporation will call upon the Midway and Southern California companies to fulfill their contracts for the delivery of natural gas. Such action would place upon the Midway and Southern California companies the burden of an undue proportion of the fluctuation in the demand for natural gas as compared with the supply and would require these companies to deliver gas under conditions more onerous than contemplated at the time the existing contracts were entered into and prices agreed upon. The protestants have not attempted to show that the construction of the proposed transmission line is either unnecessary or undesirable and they have no objection to the granting of the application provided their interests are protected. It appears that there is some danger of hardship being worked upon the Midway and Southern California companies by the unrestricted exercise of the certificate applied for and the order accompanying this opinion will provide for the necessary protection.

The evidence presented at the hearing does not show that a shortage of natural gas exists in the Los Angeles basin at the present time. On

he contrary, it appears that except during the cold days of the past winter Southern Counties Gas Company has had available, surplus natural gas in excess of the requirements of all of its consumers which surplus has been sold to Los Angeles Gas and Electric Corporation. The necessity for the additional source of supply is in the future rather than the immediate present. The same conditions that will require this additional supply of gas for Southern Counties Gas Company are likely to cause a shortage in the supply of gas available to the communities served by the other companies mentioned, whose transmission lines are now connected with those of the Southern Counties Company. It would be far from a desirable condition for Southern Counties Company to be supplying natural gas for industrial purposes or boiler fuel while in adjoining communities the supply might be inadequate for domestic requirements.

The granting of the certificate prayed for at this time is justified by the prospective convenience and necessity of the public as a whole rather than by any immediate necessity of the consumers now served by Southern Counties Gas Company. The certificate that is granted will, therefore, be subject to the condition that the gas to be transmitted by the line herein authorized, will be distributed for the benefit of the entire public rather than for the limited portion served by Southern Counties Gas Company.

I submit the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission for an order certifying that present or future public convenience and necessity require the construction of a pipe line for the transmission of natural gas and the exercise of the rights and privileges of certain franchises granted, or to be granted, to Southern Counties Gas Company of California, a public hearing having been held, the matter being submitted and now ready for decision:

The Railroad Commission hereby certifies and declares that public convenience and necessity require and will require the construction by Southern Counties Gas Company of California, of a pipe line for the transmission of natural gas from a point in the Ventura River oil field to a point in the county of Los Angeles and the exercise by Southern Counties Gas Company of the rights and privileges granted by Ordinance No. 204, adopted April 20, 1925, by the board of trustees of the city of San Fernando, Ordinance No. 288, adopted April 28, 1925, by the board of trustees of the city of Burbank, Ordinance No. 1059, adopted April 9, 1925, by the board of trustees of the city of Glendale and by franchises for the granting of which Southern Counties Gas Company of California has made its applications to the board of super-

visors of the county of Los Angeles and to the council of the city of Los Angeles, all subject to the following conditions and not otherwise:

(1) That natural gas transported through said pipe line shall not be delivered to Los Angeles Gas and Electric Corporation or sold for resale except under such conditions as may be specifically approved by this Commission.

(2) That in the event of a shortage in the supply of natural gas in Los Angeles, Orange, San Bernardino or Riverside counties, the natural gas transported by means of said pipe line shall be disposed of and distributed in accordance with the orders of this Commission.

(3) That on or before August 31, 1925, Southern Counties Gas Company of California shall file with the Commission a stipulation duly executed on authority of its board of directors agreeing that it will never claim for any of said franchises a value in excess of the cost thereof.

The authority herein granted shall be effective from and after the date of this order.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of July, 1925.

DECISION No. 15123.

IN THE MATTER OF THE OPERATION BY CALIFORNIA TRANSIT COMPANY OF A THROUGH SERVICE BETWEEN OAKLAND AND SACRAMENTO.

Case No. 2107.

Decided July 3, 1925.

TRANSPORTATION—AUTO STAGES—THROUGH SERVICE.—California Transit Company directed to desist from through operation of stages Oakland to Sacramento via Vallejo, and to run separate service Oakland to Vallejo, and Vallejo to Sacramento.

Jesse H. Steinhart, for Complainant.

W. E. Travis and *Earl A. Bagby*, for Defendant.

SEAVEY, *Commissioner*.

OPINION.

The above entitled proceeding is a matter instituted by San Francisco-Sacramento Railroad Company, a corporation, operating a railroad and engaged in the carrying of passengers for hire between Oakland and Sacramento.

Complainant alleges that defendant, California Transit Company, is a corporation owning, controlling, managing and operating automobile stages and is engaged in the transportation of persons for compensation over the public highways; that operative rights have been acquired by

urchase between Oakland and Rodeo and between Vallejo and Sacramento, but no operative right is held between Oakland and Sacramento; and that said defendant corporation has advertised and charged a through fare at less than a combination of its local fares between Oakland and Rodeo and between Vallejo and Sacramento, and has also advertised and operated a through service from Oakland to Sacramento.

It is further alleged that these through fares and the through service from Oakland to Sacramento are illegal operations, wherefore complainant prays for an order of this Commission compelling defendant, California Transit Company, to cease and desist in its illegal operations and that it be found in and be punished for contempt of the Commission and for such further orders as may be proper.

Defendant in its answer, in general, denies the allegations and maintains that in the conduct of its business it has the right to transfer its equipment from one operative right to another as it sees fit and that its acts have not been illegal or contrary to the orders of this Commission.

A public hearing was held in this matter at San Francisco, the matter was submitted after oral argument and is now ready for decision.

The record discloses that California Transit Company in Application No. 7693, Decision No. 10813, decided August 1, 1922, desired a certificate of public convenience and necessity authorizing it to transport persons and property for compensation by means of automobile busses between Oakland and Sacramento. The order in said decision denied the application for the operation of through service between Oakland and Sacramento and further order was made that within ten days after the effective date of the order made in Decision No. 9892 (wherein the right to operate a through service by Western Motor Transportation Company, predecessors in interest to defendant company, was under consideration), "California Transit Company shall cancel tariff of rates and time schedules in effect, covering through service between points south of Vallejo to and including Oakland, to points north of Vallejo, to and including Sacramento, to points south of Vallejo, to and including Oakland."

No dispute exists as to the facts in this case. In accordance with the above paragraph, defendant made correction as to the passenger fares but the old tariffs of fares and rates continued to apply for packages, baggage, commutation, express and more specifically referred to as tariffs of Western Motor Transport Company's C. R. C. No. 9, and supplements, and California Transit Company's C. R. C. No. 11, Rates Nos. 1, 2 and 3; also with the possible exception of a short interval of time a through bus was operated from Oakland to Sacramento, there being about a five-minute lay-over at Vallejo. Through service was advertised from Oakland to Sacramento and with the exception of making the passenger fare a combination of the local fares it does

not appear that Decision No. 10813 was considered by California Transit Company in its operations.

Mr. W. E. Travis, president of defendant company, and testifying in its behalf, stated that orders had been given to comply with Decision No. 10813 by changes in the tariffs of fares and discontinuance of the operation of a through bus. This latter change increased costs of operation and former method of operation was reverted to. The argument of witness was that if "the exigencies of the occasion, either daily or intermittently, require me to send the car through, why, it is my car, I can send it where I please, and whose business is it if I send it on through?"

If witness' viewpoint be correct, then the powers of the Commission vested in it by legislative act to "supervise and regulate" transportation companies would be of no effect.

Regular assignment of a vehicle on its arrival at Vallejo from Oakland to the run from Vallejo to Sacramento would make the Commission's order in its Decision No. 10813 of no effect and such practice indicates evasion and subterfuge.

This phase of operation has been considered previously as the following from Decision No. 9442 indicates:

* * * on several occasions, through cars were operated, that such operation was claimed by applicants to be necessitated through the fact that cars had broken down and connection could not be made at McKittrick, which required one of such applicants to lease the car and employ a driver of the other applicant for the purpose of finishing such portion of the trip required over the operative right held by the other applicant. The frequency of these through trips alleged to be necessary by reason of mechanical failure of cars is looked upon by the Commission as a subterfuge and such methods of operation should not occur in the future.

That decision further stated that where an application was made to consolidate two connecting lines, applicants will be required to show, and to the satisfaction of the Commission, that a public necessity clearly exists for the through service which they propose to establish by such consolidation, particularly when the proposed through service will be in direct competition with existing lines * * *.

In Case No. 1640, Decision No. 10338, complaint was brought against Coast Truck Line for the operation of through service. That company had connecting operating rights but no certificate of public convenience and necessity for a through service from points covered in one right to points covered in an adjoining right. The following extract from that decision is of special significance in the instant case:

Shipments which may be consigned from Los Angeles to Oceanside, there to be taken over the other portion of the route to San Diego, can be handled but can not be transported in the same vehicle, must be transferred at Oceanside and the through rate must be a combination of the local rates as formerly existing when the lines were operated as separate entities, unless proper authority has been secured from this Commission after formal application and the action of the Commission thereon.

This decision on appeal was affirmed by the Supreme Court of the State of California (191 Cal. 257).

The Commission's Decision No. 9892 was in accordance with the foregoing. Reference is also made to Decision No. 9065 in which on appeal

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the Supreme Court (Case S. F. No. 10099, 189 Cal. 573) was sustained.

The Auto-Stage and Truck Transportation Act clearly vests the Commission with power and authority "to supervise and regulate transportation companies, issue certificates of public convenience and necessity and may attach to the exercise of the rights granted—such terms and conditions as, in its judgment, may require." It also may for cause suspend and revoke, alter or amend a certificate.

In the exercise of the duties with which the Railroad Commission is charged as contained in the provisions of the above act, the matter of through rates and the "linking up" of certificates to enable the operation of through service has been considered and it has been consistently held that such changes resulting in extension of rights can only be lawfully accomplished by a formal order of the Commission. The decisions cited leave no doubt as to the principles heretofore promulgated by the Commission and that these principles are sound must be accepted in view of the affirmations by the Supreme Court of the State of California, as hereinabove noted.

We are of the opinion and hereby find as a fact that defendant has sought to obtain by indirection an operative right which was specifically denied by Decision No. 10813 and defendant's operations are contrary to orders of this Commission and should be discontinued forthwith, together with all necessary changes in its tariff.

We submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the findings of fact as appear in the opinion which precedes this order;

is hereby ordered, that defendant, California Transit Company, within five (5) days from the date of this order cease and desist the operation of its vehicles between Oakland and Sacramento via Vallejo as a through vehicle and hereafter operate separate busses or vehicles between Oakland and Vallejo and between Vallejo and Sacramento, in accordance with the opinion which precedes this order. The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

Witness my hand at San Francisco, California, this third day of July, 1925.

DECISION No. 15124.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AUTHORITY TO CONSTRUCT A CERTAIN DAM AND TO ISSUE AND SELL TWO MILLION DOLLARS PAR VALUE OF SEVEN PER CENT PREFERRED STOCK.

Application No. 11110.

Decided July 3, 1925.

SECURITIES—BONDS—TO ISSUE.—Great Western Power Company of California authorized to issue and sell \$2,000,000 of 7 per cent cumulative preferred stock, at not less than 97 per cent of par value, plus accrued dividends, and to use the proceeds thereof to finance construction of an addition and extension to its Big Meadows dam.

Guy C. Earl and Chaffee E. Hall by Chaffee E. Hall for Applicant.

DECOTO, *Commissioner.*

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Great Western Power Company of California

1. To construct an addition and extension to its Big Meadows dam; and

2. To issue and sell, at not less than 97 per cent of par value and accrued dividends, net, \$2,000,000 of its 7 per cent cumulative preferred stock; and

3. To use the proceeds to be received from the sale of the stock herein applied for, to finance, in part, the cost of the addition and extension to the Big Meadows dam, and of works incidental thereto and for the purposes heretofore indicated in the order in Application No. 10785; and

4. To use the proceeds received, or to be received, from the sale of the stock and bonds authorized to be issued by the order in Application No. 10785 to finance, in part, the cost of the construction work outlined in this application as well as for the purposes indicated in said order.

Great Western Power Company of California owns, maintains and operates, in Plumas County, a certain dam and reservoir for impounding the waters of the North Fork of the Feather River, the dam being known as the Big Meadows dam and the reservoir as Lake Almanor. The height of the crest of the dam, which is of the hydraulic fill type, is 4470 feet above sea level and the capacity of the reservoir formed by it is about 300,000 acre-feet. Subject to the approval of the Commission it is now proposed to construct an extension and addition thereto which will consist of a dam, also of the hydraulic fill type, that will

increase the height by about forty-five feet and will increase the storage capacity of the reservoir by about 1,000,000 acre-feet.

There were filed in this proceeding a copy (applicant's Exhibit 1) of a contract with Foundation Company for the construction of the dam, a map (applicant's Exhibit 2) of the Big Meadow region, a copy (applicant's Exhibit 3) of the plans and specifications of the proposed construction, and a copy (applicant's Exhibit 4) of a report prepared by W. O. Crosby dealing with the geological features of the Big Meadows and Butt Valley dam sites. In addition, applicant called as witnesses J. M. Howells and J. D. Galloway, consulting engineers, C. M. Mardel, its chief engineer, W. G. B. Euler, its general superintendent, and Wm. Steele, vice president of the Foundation Company, who testified as to the principles and details of the design affecting the safety and feasibility of the proposed new dam, it being the opinion of all witnesses that the hydraulic fill dam is the type most suitable for this site, that the underlying foundation is favorable for the construction, and that the dam would be a safe and dependable structure.

After a careful consideration of the evidence submitted in this matter I am of the opinion that applicant should be authorized to proceed with the construction of the dam as proposed in accordance with the plans and specifications filed as Exhibit 3.

Applicant estimates the cost of the dam and incidental works at \$1,951,460, which amount is segregated as follows:

Dam.

Contract price of Foundation Company under contract, dated March 30, 1925	\$1,385,000 00
Engineering and inspection cost	75,000 00
Intake tower mechanism	23,500 00
Installation main transformer bank	14,000 00
Substation and line changes	3,500 00
Electric power	95,880 00
Clearing site near spillway and installation of booms ..	20,000 00
General office overhead	10,000 00
	<hr/>
	\$1,626,880 00

Incidental Works.

Raising intake tower tunnel No. 1	\$15,000 00
Excavating around intake tower tunnel No. 1 (60,000 yards at \$1.50 per yard)	90,000 00
Moving Prattville cemetery	6,000 00
Relocating 27 miles of county road	127,330 00
Purchase 1225 acres of land at \$50 per acre	61,250 00
Legal expenses	25,000 00
	<hr/>
	324,580 00
 Total	 <hr/>
	\$1,951,460 00

The contract price with Foundation Company is subject to adjustment for extra or additional work not now contemplated.

To finance in part the cost of the proposed construction, and for other expenditures heretofore reported in Application No. 10785, the

company asks permission to issue and sell \$2,000,000 of its 7 per cent cumulative preferred stock at not less than 97 per cent of face value and accrued dividends net. In order to simplify its accounting it also asks permission to use the proceeds to be received from the sale of the stock for the purpose of financing in part the cost of the construction work referred to in the order in Application No. 10785 and to use the proceeds from the sale of the securities authorized by said order for the construction work now reported as well as for the purposes originally authorized.

The Decision, No. 14541, dated February 5, 1925, in Application No. 10785, permitted applicant to issue and sell \$1,500,000 of its first and refunding mortgage series "D" 5½ per cent bonds at not less than 92.5 per cent of face value, plus accrued interest and \$2,000,000 of its 7 per cent preferred stock at not less than 95 per cent of par value for the purpose of reimbursing its treasury on account of capital expenditures of \$502,914.17 made prior to December 31, 1924, against which the Commission had not theretofore authorized the issue of stock or bonds, and of financing the cost of capital expenditures to be made during 1925, the estimated cost of which was \$2,846,321, not including the cost of the construction work now reported.

I herewith submit the following form of order:

ORDER.

Great Western Power Company of California having applied to the Railroad Commission for an order approving and authorizing the construction of an addition and extension to its Big Meadows dam and approving the plans and specifications therefor, and for an order authorizing the issue of stock, public hearings having been held, and the Commission having given consideration to the evidence regarding the safety of the proposed dam and being of the opinion that the proposed dam will be a safe and dependable structure, and being further of the opinion that the money, property or labor to be procured or paid for by such issue of stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Great Western Power Company of California be and it hereby is authorized to proceed with the construction of the addition and extension to the Big Meadows dam, to which reference is made in the foregoing opinion, such construction to be in accordance with the plans, specifications and map filed in this proceeding, which are hereby approved.

It is hereby further ordered, that Great Western Power Company of California be and it hereby is authorized to issue and sell, on or before June 30, 1926, at not less than 97 per cent of par value plus accrued

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idend, \$2,000,000 of its 7 per cent cumulative preferred stock, and use the proceeds to finance in part, the cost of the construction work ordered in the foregoing opinion and in the opinion and order in Decision No. 14541, dated February 5, 1925, in Application No. 10785. *It is hereby further ordered*, that the order in Decision No. 14541, dated February 5, 1925, in Application No. 10785 be, and it hereby is, modified so as to permit Great Western Power Company of California to use the proceeds received, or to be received, from the sale of the stock and bonds authorized therein to finance in part, the cost of the construction work described in the foregoing opinion, provided that in all other respects said order shall remain in full force and effect.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall file with the Commission monthly progress reports covering the construction of the addition and extension of the Big Meadows dam and of the work incidental thereto.

2. Applicant shall keep such record of the issue, sale and delivery of stock herein authorized and of the disposition of the proceeds as to enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective in twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered that as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of July, 1925.

DECISION No. 15125.

CITY OF BAKERSFIELD, A MUNICIPAL CORPORATION,

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
A CORPORATION.

Case No. 1870.

Decided July 3, 1925.

CROSSING—SEPARATION OF GRADES—PROPERTY DAMAGES.—Damages amounting to \$800 fixed by the Commission upon request of the city of Bakersfield, as the result of separation of the grades of Union avenue and the tracks of The Atchison, Topeka and Santa Fe Railway Company.

F. Brittan, for the City of Bakersfield.

F. Lucey and *W. W. Kelly*, for Atchison, Topeka and Santa Fe Railway Company.

Ed Scimon, for Consolidated Pipe Company.

Walter Osborne, for M. J. Woodside and Mrs. Carrie L. Woodside.

P. M. Tarabino, for Colorado Pacific Land Company.

Lloyd Stroud, for Stroud Brothers, i. e., Lloyd S. Stroud, J. A. Stroud and R. Seabrook.

BRUNDIGE, SQUIRES AND DECOTO, Commissioners.

OPINION.

This is a proceeding brought under subdivision (c) of section 43 of the Public Utilities Act upon the amended petition of the *City of Bakersfield, a municipal corporation*, vs. *The Atchison, Topeka and Santa Fe Railway Company, a corporation*, to fix and ascertain the damage to the abutting property caused by the separation of grades between the highway and the tracks of the defendant, where the tracks of the defendant cross Union avenue in said city.

After due notice had been given to all parties named in the amended petition of complainant, the matter was regularly set for hearing and a public hearing thereon was held in the county courthouse in the city of Bakersfield on January 15, 1925.

Witnesses were called by the complainant, city of Bakersfield, Lloyd Stroud Brothers, i. e. Lloyd Stroud, J. A. Stroud and R. S. Seabrook; by M. J. Woodside and Mrs. Carrie L. Woodside; by Colorado Pacific Land Company and by the Commission, duly sworn and testified.

The testimony of the witnesses as to the damage caused to the various parcels of land, described in the amended petition, had a wide and marked variance.

From all the evidence adduced at the hearing we find as a fact:

I.

That lot 15, block 10, according to the "Map of the First Subdivision of the Kruse Tract in the city of Bakersfield, Kern County, California" filed in the office of the county recorder of Kern County, California, August 3, 1911, in book 2 of maps, at page 30, being the property of Carrie L. Woodside, will be damaged by said separation of grades to the sum of three hundred and fifty dollars (\$350).

II.

That lot 16, block 10, according to the "Map of the First Subdivision of the Kruse Tract in the city of Bakersfield, Kern County, California," filed in the office of the county recorder of Kern County, California, August 3, 1911, in book 2 of maps, at page 30, being the property of Carrie L. Woodside, will be damaged by said separation of grades in the sum of one hundred and fifty dollars (\$150).

III.

That the parcel of land, situated in the city of Bakersfield, county of Kern, State of California, and described as follows, to wit:

Beginning at a point in the easterly line of Union avenue 56.63 feet south from the southerly line of Truxton avenue and running thence southerly along

easterly line of Union avenue a distance of 268.86 feet; thence easterly on a straight line 396.95 feet to the westerly line of Sonora street; thence northerly along the westerly line of Sonora street a distance of 139.09 feet; thence northwesterly on a straight line 453.09 feet to the easterly line of Union avenue and the point of beginning,

being the property of The Atchison, Topeka and Santa Fe Railway Company, will be damaged by said separation of grades in the sum of one hundred dollars (\$100).

IV.

That the parcel of land, situated in the city of Bakersfield, county of Kern, State of California, described as follows, to wit:

Beginning at a point in the easterly line of Union avenue 314 feet northerly from the northerly line of Butte street and running thence easterly along a straight line 396.95 feet to the westerly line of Sonora street; thence southerly along the westerly line of Sonora street 420.92 feet to the northerly line of Butte street; thence westerly on the northerly line of Butte street 291.63 feet to the easterly line of Union avenue; thence northerly along the easterly line of Union avenue 314 feet to the point of beginning,

and being the property of Lloyd Stroud, J. A. Stroud and R. S. Seabrook, will be damaged by said separation of grades in the sum of one hundred dollars (\$100).

V.

That the parcel of land, situated in the city of Bakersfield, county of Kern, State of California, described as follows, to wit:

Beginning at the intersection of the west line of Union avenue with the north line of California avenue; thence west along the north line of California avenue 246.85 feet to the southeast corner of Block 384 in the city of Bakersfield, Kern County, California, according to the map filed in the office of the county recorder of Kern County, California, on November 25, 1898; thence north 693 feet to the north line of Fourteenth street; thence west 264 feet to the east line of S street; thence north along the east line of S street 346.5 feet; thence east 279 feet; thence north 72.96 feet to a point in the southerly right of way line of Atchison, Topeka and Santa Fe Railway; thence northeasterly along the said company's right of way line 1245.4 feet to a point in the west line of Union avenue; thence south along the west line of Union avenue 1306.25 feet to the point of beginning, being a portion of the S.E.¼ of section 30, township 29 south, range 2S E., M. D. B. and M.,

and being the property of The Atchison, Topeka and Santa Fe Railway Company, will be damaged by said separation of grades in the sum of one hundred dollars (\$100).

VI.

That none of the other property described in the amended petition of complainant will be damaged in any sum whatsoever.

VII.

That the separation of grades between the highway and the tracks of The Atchison, Topeka and Santa Fe Railway Company, a corporation, where the tracks of the said Atchison, Topeka and Santa Fe Railway Company cross Union avenue in the city of Bakersfield is a use authorized by law and that said grade separation is necessary.

The following form of order is recommended:

ORDER.

A public hearing having been held in the above entitled matter, same having been duly submitted, the Commission being now fully advised and basing its order on the findings of fact as appearing in its opinion, which precedes this order;

It is hereby ordered, that the city of Bakersfield, a municipal corporation, and The Atchison, Topeka and Santa Fe Railway Company, a corporation, pay to Carrie L. Woodside, as damages to the property belonging to said Carrie L. Woodside, hereinabove described, the sum of five hundred dollars (\$500), lawful money of the United States; that the city of Bakersfield, a municipal corporation, and The Atchison, Topeka and Santa Fe Railway Company, a corporation, pay to The Atchison, Topeka and Santa Fe Railway Company, as damages to the property of The Atchison, Topeka and Santa Fe Railway Company, hereinabove described, the sum of two hundred dollars (\$200), in lawful money of the United States; that the city of Bakersfield, a municipal corporation, and The Atchison, Topeka and Santa Fe Railway Company, a corporation, pay to Lloyd S. Stroud, J. A. Stroud and F. S. Seabrook, as damages to the property of said Lloyd S. Stroud, J. A. Stroud and R. S. Seabrook, hereinabove described, the sum of one hundred dollars (\$100) in lawful money of the United States.

That the payment of the sums hereinabove set forth and directed to be paid one-half ($\frac{1}{2}$) by the said city of Bakersfield and one-half ($\frac{1}{2}$) by The Atchison, Topeka and Santa Fe Railway Company, a corporation, and shall be made within ninety (90) days from the date of this order.

For all other purposes, other than hereinabove specified, the effect of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered to be filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of July, 1925.

 DECISION No. 15126.

IN THE MATTER OF THE APPLICATION OF LATHROP HAY COMPANY
OF HOLLISTER, CALIFORNIA, FOR ORDER AUTHORIZING
ISSUE OF STOCK.

 Application No. 11326.

Decided July 3, 1925.

SECURITIES—STOCK TO ISSUE.—Authority granted Lathrop Hay Company, a water house utility, to issue 503 shares of its capital stock in lieu of a like amount issued without authority of the Commission, and to sell 497 shares of the same at \$100 a share.

P. G. Sheehy, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Lathrop Hay Company asks the Railroad Commission to make an order authorizing it to issue 1000 shares of its capital stock, of the aggregate par value of \$50,000, and to deliver 503 shares hereof in lieu of a like amount heretofore issued under authority granted by the Commissioner of Corporations but without an order from this Commission, and to sell the remaining 497 shares at \$100 a share, to finance the cost of acquiring the business and properties of Hollister Warehouse Company and of providing working capital.

The application shows that Lathrop Hay Company is engaged in the business of buying, selling, weighing and storing hay in San Benito County and through central California. It appears that the corporation was organized on or about May 5, 1893, under the name of Farmers Hay Company, the name being subsequently changed to the present one by an order, dated August 7, 1899, of the superior court in and for the county of San Benito.

The company has an authorized capital stock of \$100,000, divided into 2000 shares of the par value of \$50 each, all common. Of the authorized amount, it appears that 1000 shares, of the total par value of \$50,000, were issued upon organization, and that 503 shares, of the total par value of \$25,150, were issued and sold, at \$95 a share, a price yielding applicant \$47,785, pursuant to an order of the Commissioner of Corporations, dated April 3, 1923, to pay in part for the properties and business of The Etcheverry Warehouse Company located at Tres Pinos and consisting of three grain warehouses, five hay warehouses, planing mill, barley mill, a lumber yard, three dwelling houses, barns, outhouses, rolling stock and equipment.

The issue of the 503 shares of stock was not authorized by the Railroad Commission. It appears, however, that the issue of such stock without an order from the Commission was through inadvertence and with no intent to evade the provisions of the Public Utilities Act. In now making this application the company states that it wishes to recall the 503 shares so issued and to reissue them under authority granted by this Commission.

Applicant proposes to issue and sell 450 shares of the remaining 497 shares of stock at \$100 a share to pay for the properties of Hollister Warehouse Company, or to pay indebtedness incurred in the purchase of such properties, and to sell the balance at \$100 per share to provide for working capital.

The annual report of Hollister Warehouse Company filed with the Railroad Commission for the year ending December 31, 1924, shows that it owns and operates five warehouses and operates under contract of sale two warehouses belonging to Sperry Flour Company. The report indicates that the warehouses have an aggregate floor space of

56,500 square feet and an aggregate capacity of 11,300 tons. The company reports its gross revenues for 1922 at \$17,987.04; for 1923 at \$24,904.17, and for 1924 at \$28,872.67; and its net revenues for 1922 at \$3,299.91; for 1923 at \$5,832.14; and for 1924 at \$11,277.35.

ORDER.

Lathrop Hay Company, having applied to the Railroad Commission for permission to issue \$50,000 of its capital stock, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Lathrop Hay Company be and it hereby is authorized to issue 1000 shares of its common capital stock of the aggregate par value of \$50,000 and to deliver 503 shares thereof in lieu of a like amount heretofore issued without an order from the Commission, as indicated in the foregoing opinion, and to sell the remaining 497 shares at not less than \$100 per share for the purpose of financing the cost of acquiring the properties of Hollister Warehouse Company and of providing working capital.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof, but under such authority no stock may be issued subsequent to December 1, 1925.

Dated at San Francisco, California, this third day of July, 1925.

DECISION No. 15129.

IN THE MATTER OF THE APPLICATION OF GEORGE A. SCOTT, DOING BUSINESS UNDER THE FICTITIOUS NAME AND STYLE OF SCOTT STAGE COMPANY, OR SCOTT STAGE CO., AND MOUNT LASSEN TRANSIT COMPANY, A CORPORATION, FOR APPROVAL OF A CERTAIN AGREEMENT; ALSO, OF THE MOUNT LASSEN TRANSIT COMPANY, A CORPORATION, TO ISSUE AND SELL STOCK; ALSO, AUTHORIZING MOUNT LASSEN TRANSIT COMPANY, A CORPORATION, TO LINK ITS PRESENT OPERATIVE RIGHTS WITH THE PROPOSED RIGHTS TO BE PURCHASED HEREIN.

Application No. 11106.

IN THE MATTER OF THE APPLICATION OF MOUNT LASSEN TRANSIT COMPANY, A CORPORATION, TO CONSOLIDATE THE OPERATIONS OVER CERTAIN OPERATIVE RIGHTS NOW OWNED BY APPLICANT.

Application No. 11069.

Decided July 3, 1925.

TRANSFER—AUTO STAGES—STOCK ISSUE—UNIFIED SERVICE.—Application of George A. Scott (Scott Stage Company) for permission to transfer his existing operative rights to Mount Lassen Transit Company, and of the latter to issue and sell \$25,000 of its capital stock to pay for same; and also to unify all its operative rights as one system, granted.

Harry A. Encell and James A. Miller, by Harry A. Encell, and Charles A. Beck, for Mount Lassen Transit Company, Applicants in Application No. 11106 and No. 11069.

W. M. Kearney, and J. A. Pardee, for Scott Stage Company Applicant in Application No. 11106.

BY THE COMMISSION.

OPINION.

By Application No. 11106, George A. Scott, doing business under the fictitious name and style of Scott Stage Company, or Scott Stage Co., and Mount Lassen Transit Company, a corporation, seek authority for the transfer by George A. Scott to Mount Lassen Transit Company of certain operative rights now owned by the former, described as follows:

1. For the operation of an automobile stage line for the transportation of passengers and baggage as a common carrier between Westwood and the point where the county road intersects the California-Nevada state line near Doyle, Lassen County, serving also intermediate points, operated pursuant to authority granted by this Commission's Decision No. 7506 in Application No. 5363;

2. For the operation of an automobile stage line for the transportation of passengers between Westwood and Greenville on the one hand and Crescent Mills and Greenville on the other, but not intermediate between Westwood and Greenville, inclusive, as an extension of and in conjunction with the existing Susanville-Westwood stage line theretofore operated by said George A. Scott; the same having been operated pursuant to authority granted by this Commission's Decision No. 14338, in Application No. 9879.

It is alleged that Mount Lassen Transit Company has agreed to purchase from George A. Scott the following:

1. The operative rights above described, together with the interstate passenger stage line between Westwood, California, and Reno, Nevada, but not including the right to operate an automobile stage line for the common carriage of passengers and baggage between Susanville and Doyle granted by this Commission's Decision No. 11908 in Application No. 8856;

2. Certain tangible property comprising two 18-passenger and two 23-passenger stages. (The evidence shows that the capacity of the larger stages was overestimated in the application. Each will accommodate twenty instead of twenty-three passengers.)

For this Mount Lassen Transit Company has agreed to pay Scott a total purchase price of \$30,000, alleged to be the fair value of the property and property rights to be transferred, including good will and the value of such business as a going concern. The sum of \$4,000 has been paid on account of the purchase price, and the balance amounting to \$26,000 will be paid in two installments, viz, \$16,000 on or about July 1, 1925, and \$10,000 on November 1, 1925, subject however, to the approval of the Commission.

In order to pay the balance of \$26,000, Mount Lassen Transit Company seeks permission to issue and sell at par 26,000 shares of its common capital stock of the par value of \$26,000, all of which has been subscribed.

Mount Lassen Transit Company also requests authority to consolidate the operative rights sought to be acquired from Scott with its present operative rights and to operate a unified transportation service over and along all of its routes. The proposed fares and time schedules of Mount Lassen Transit Company are attached to the application.

By Application No. 11069 Mount Lassen Transit Company seeks a certificate of public convenience and necessity permitting the consolidation and unified operation of certain operative rights which it now owns, namely:

1. An automobile stage line for the transportation of passengers, baggage, and express (not exceeding fifty pounds in weight) over the Red Bluff-Susanville highway between Red Bluff, Tehama County, and Westwood, Lassen County, via Paynes Creek, Mineral and Chester. Applicant acquired this operative right from Walter Gosney pursuant to this Commission's Decision No. 13651, Application No. 10062, and Decision No. 14507, Application No. 10764.

2. The right to operate automotive passenger, freight, express and baggage service between Keddie, Crescent Mills, Greenville, Forest Camp, Canyon Dam, Prattville, Almanor, Chester and Drakesbad and intermediate points, and of passenger, baggage and express service between Keddie, Crescent Hills, Greenville, Westwood and Susanville. Applicant acquired this operative right from W. C. Lawrence pursuant to this Commission's Decision No. 14737 on Application No. 10948.

Applicant alleges that the unification of these operative rights will meet public convenience through the elimination of transfers at existing terminals and the rerouting of certain passenger stages and freight trucks from points along one operative route to another and will result in the more economical operation of applicant's line through the reduc-

ion of overhead expenses and the establishment of a unified management and control. The proposed time schedules and schedules of fares accompany the application.

A public hearing was held before Examiner Austin at Susanville on May 19, 1925, when the foregoing applications were consolidated for the purpose of receiving evidence and for decision, evidence was offered, the matters were duly submitted, and they are now ready for decision.

Dealing first with Application No. 11106, the record shows that George A. Scott has been operating the lines proposed to be transferred, and has agreed to sell the operative rights and the four stages to Mount Lassen Transit Company for \$30,000, of which \$4,000 has been paid.

Mount Lassen Transit Company is a California corporation, organized February 11, 1924, with an authorized capital stock of \$50,000, all common, divided into 50,000 shares of the par value of \$1 each. By Decision No. 14507, in Application No. 10764, Mount Lassen Transit Company was authorized to issue \$24,000 of its capital stock, of which \$9,000 was directed to be issued to Walter Gosney in consideration for the transfer of certain operative rights and physical properties (authorized by Decision No. 13651, in Application No. 10062), and \$15,000 was required to be sold at not less than par to finance the cost of two new automobile stages. The testimony shows that \$9,000 of this stock has been issued to Gosney, and \$15,000 has been issued and sold. The two new stages cost about \$9,000 each, or a total of \$18,000. One has been delivered and paid for; \$2,000 has been paid on account of the other stage, which has not yet been delivered, but the company is ready to pay the balance of \$7,000 when the stage is turned over. The company has on hand \$4,000 of the \$15,000 stock issue, to be applied on this stage.

Certain operative rights were acquired from W. C. Lawrence pursuant to Decision No. 14737, in Application No. 10948, which authorized the payment of \$20,000 as the purchase price, to be secured by promissory notes executed by Mount Lassen Transit Company. The latter has executed to W. C. Lawrence a series of notes bearing interest at 6 per cent per annum, payable over a period of years beginning April 1, 1926, and ending April 1, 1930, aggregating \$30,222, of which \$20,000 represents the price of the Lawrence lines and \$10,222, the price of the stock and garage at Greenville sold by Lawrence to the company. All of these notes will be paid out of the company's earnings.

Mount Lassen Transit Company has also borrowed an aggregate of \$10,000 on notes secured by endorsement, due in less than one year after their respective dates. Its assets and liabilities as of May 15, 1925, are as follows:

<i>Assets.</i>	
Gosney line (Red Bluff) -----	\$9,000 00
Lawrence line (Keddie) -----	20,000 00
New equipment -----	18,000 00
Greenville garage -----	10,200 00
Chester service station -----	2,000 00
Office equipment and tools -----	1,000 00
Accounts receivable -----	5,236 00
Cash in bank -----	13,000 00
Total -----	\$78,436 00
<i>Liabilities.</i>	
Capital stock -----	\$24,000 00
Balance on stage -----	7,000 00
Outstanding notes—	
Lawrence -----	\$30,222 00
Westwood National Bank -----	6,000 00
Lassen Industrial Bank -----	2,000 00
Lassen County Bank -----	2,000 00
	40,222 00
Total -----	\$71,222 00

Because of the short time the company has been operating, its financial receipts and expenditures are necessarily extremely meager.

The testimony of the secretary of Mount Lassen Transit Company showed that in arriving at the purchase price of \$30,000 to be paid Scott, nothing was allowed for good will or franchise value (The Mount Lassen Transit Company paralleling his operations very closely), and that this sum was considered the value of physical property. This consisted of two 18-passenger stages estimated at \$7,000 each, and two 20-passenger stages now being constructed by Scott, estimated at \$8,000 each. Altogether these items aggregate \$30,000. One of the White stages was bought by Scott in July, 1922, for \$8,700; about \$1,000 has since been spent in repairs. The other White stage was bought in June, 1923, for \$9,000, the subsequent repairs amounting to about \$750. Both stages have been practically rebuilt in the shop and are in good condition; they have been operated only about one-half the time. Mr. Scott testified that materials and parts valued at about \$5,000 were used in each of the cars which he is constructing; for labor he would add one-third more thus making the total cost of each car about \$6,500. He asserted that he could not replace these cars in the market for the price asked. It was stated that these cars had been appraised at the prices agreed upon by the manager of the Redwood Lumber Company's garage at Westwood, who has had considerable experience in dealing with automotive equipment. The secretary of Mount Lassen Transit Company testified that this equipment was necessary for the company's operations and if it had not been purchased from Scott, the company would have been obliged to purchase similar equipment else-

where. He also stated that the stock issue of \$26,000 has been fully subscribed by some of the present stockholders of Mount Lassen Transit Company, and that Mr. Scott will be promptly paid in cash. Of the agreed purchase price not over \$26,000 should, in our opinion, be capitalized through the issue of stock or evidences of indebtedness. If more than \$26,000 is paid by Mount Lassen Transit Company for the Scott properties, the excess payment should be charged to the company's surplus account.

It is unnecessary to authorize the transfer of the route between Westwood and Reno, since it involves purely interstate operations wholly without the Commission's jurisdiction.

In discussing the consolidation of operative rights, we believe it advisable to consider the evidence bearing upon the routes involved in both applications Nos. 11106 and 11069, namely:

1. Passenger, baggage and express service (not exceeding 50 pounds), over the Red Bluff-Susanville highway between Red Bluff and Westwood via Paynes Creek, Mineral and Chester;

2. Passenger, freight, express and baggage service between Keddie, Crescent Mills, Greenville, Forest Camp, Canyon Dam, Prattville, Almanor, Chester and Drakesbad and intermediate points;

3. Passenger, baggage and express service between Keddie, Crescent Mills, Greenville, Westwood and Susanville;

4. Passenger and baggage service between Westwood and the point where the county road intersects the California-Nevada state line near Doyle serving also intermediate points;

5. Passenger service between Westwood and Greenville, on the one hand, and Crescent Mills and Greenville on the other, but not intermediate between Westwood and Greenville, as an extension of and in conjunction with the existing Susanville-Westwood stage line theretofore operated by George A. Scott.

The record shows that lumber production is the principal industry at Susanville and Westwood, and that large lumber mills are operated at northern California points such as Weed, Eureka, Scotia and points on the Klamath River, and also on the McCloud River in southern Oregon. Between these mills there is a constant flow of labor, which is accentuated by the large labor turnover at the various plants. These men travel from Reno to Westwood and Susanville and thence to other lumber towns in Northern California and southern Oregon. Much of his traffic originates at Sacramento and Redding flowing north and south respectively to Red Bluff where connection is made by other stage lines, such as the Shasta Transit Company and the West Coast Transit Company, with the lines of Mount Shasta Transit Company. The linking up of this applicant's lines will eliminate transfers en route now necessary, will result in greater convenience to through

passengers, and will afford a more expeditious through service than now possible by rail.

The Great Western Power Company of California proposes to raise Canyon Dam at Lake Almanor, which will result in the employment of from 150 to 300 men for about two years. Here, also, there will be a large labor turnover. At present the Mount Lassen Transit Company can carry passengers direct to Canyon Dam, but from Reno and Red Bluff no through service to the dam now exists. The unification of this applicant's lines will permit such operation, thereby resulting in greater convenience to this traffic.

The proposed consolidation will also permit the rerouting of stages between Westwood and Chester over a much shorter route than at present permissible, saving considerable time, and resulting in a material reduction of fares. Instances were cited of stopovers now necessary at connecting points of various units of this applicant's system, which would be eliminated. Further, the absorption of Scott's lines will eliminate a duplication of service between Crescent Mills and Westwood, and between Westwood and Susanville. This alone, it was estimated, will result in a saving of 15 per cent in operating costs between these points. In addition, a saving of 25 per cent of operating costs throughout the system will result from the unification of the lines. This, it was promised by applicant's representatives, will be reflected in reduction of fares to be made; the proposed through rates, so Mr. W. C. Lawrence testified, were lower than the existing combinations of local rates.

Mr. Lawrence also testified that the interchange of express shipments from points on one operative right to another will meet the public convenience, and that in the past he had received frequent requests to interchange such shipments with the so-called Scott and Gosney lines.

We believe the record justifies the consolidation of applicant's operative rights with respect to the operation of passenger, baggage and express service.

On the route between Red Bluff and Westwood, over the Red Bluff-Susanville highway, the transportation of express is limited to packages of fifty pounds or less; no restrictions as to weight is applicable to express rights over any other routes involved in these proceedings. In authorizing the unification of this company's routes we believe that the restriction on the transportation of express over the Red Bluff-Westwood route should be eliminated for the purpose of uniformity. However, in our judgment, the transportation of express should be restricted to applicant's passenger stages.

No express rights were granted over the routes between Westwood and Greenville, and Crescent Mills and Greenville, nor between Westwood and the state line near Doyle. The record shows that frequent

CALIFORNIA RAILROAD COMMISSION DECISIONS:

uests have been received for the transportation of express to points these lines. We are therefore of the opinion that the express privilege should be extended to include these lines as part of the consolidated tem.

Mount Lassen Transit Company was granted no rights for the transportation of freight over any of the routes involved in these proceedings er than that between Keddie, Crescent Mills, Greenville, Forest np, Canyon Dam, Prattville, Almanor, Chester and Drakesbad and rmediate points. The record shows no justification for the extension of this privilege to any other routes nor for the operation of a ight service over the consolidated system. Therefore, the right ransport freight, in so far as these proceedings are concerned, will confined to the service now existing.

Jpon the record herein we are of the opinion and hereby find as a t that the transfer of the operative rights and properties described Application No. 11106 from George A. Scott doing business under fictitious name and style of Scott Stage Company or Scott Stage Co., Mount Lassen Transit Company should be authorized; that permission to issue \$26,000 of capital stock by Mount Lassen Transit Company uld be granted, and that public convenience and necessity require consolidation and unification of the operative rights of Mount sen Transit Company, described in Applications Nos. 11106 and '69, subject to the provisions and conditions of this opinion and er.

An order will be entered accordingly.

ORDER.

George A. Scott, doing business under the fictitious name and style Scott Stage Company, or Scott Stage Co., having applied to the Road Commission for permission to transfer the operative rights l properties referred to in the foregoing opinion to Mount Lassen nsit Company, a corporation, and Mount Lassen Transit Company ing applied to the Commission for permission to issue \$26,000 of k and assume the payment of indebtedness and to operate the auto- tive passenger stage service referred to in this order, a public hear- having been held and the Commission being of the opinion that the ey, property or labor to be procured or paid for by the issue of k herein authorized is reasonably required by the Mount Lassen nsit Company, and that this application should be granted as herein vided; therefore,

it is hereby ordered, that George A. Scott, doing business under the itious name and style of Scott Stage Company or Scott Stage Co., and he is hereby authorized to sell and transfer to Mount Lassen nsit Company, a corporation, the equipment and operative rights

described in the foregoing opinion and referred to in Application No. 11106, said operative rights being described as follows:

1. The right to operate an automobile stage line for the transportation of passengers and baggage as a common carrier between Westwood and the point where the county road intersects the California-Nevada state line near Doyle, Lassen County, serving also intermediate points, operated pursuant to authority granted by this Commission's Decision No. 7506 in Application No. 5363, dated April 30, 1920.

2. The right to operate an automobile stage line for the transportation of passengers between Westwood and Greenville on the one hand and Crescent Mills and Greenville on the other, but not intermediate between Westwood and Greenville inclusive, as an extension of and in conjunction with the existing Susanville-Westwood stage line theretofore operated by said George A. Scott, operated pursuant to authority granted by this Commission's Decision No. 14338 in Application No. 9879, dated December 8, 1924.

Authority herein granted to transfer operative rights is subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate-fixing body as a measure of value of said property for rate fixing or any purpose other than the transfer herein authorized.

2. Applicant George A. Scott, doing business under the fictitious name and style of Scott Stage Company or Scott Stage Co., shall immediately cancel tariff of rates and time schedules on file with the Commission covering service, certificate for which is herein authorized to be transferred. Such cancellation to be in accordance with the provisions of General Order No. 51.

3. Applicant Mount Lassen Transit Company shall immediately file, in duplicate, tariffs of rates and time schedules or adopt as its own the tariff of rates and time schedules for said service as heretofore filed by said applicant George A. Scott. All tariffs of rates and time schedules shall be identical with those as filed by applicant George A. Scott.

4. The rights and privileges herein authorized to be transferred shall not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant Mount Lassen Transit Company unless such vehicle is owned by said applicant or is leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that Mount Lassen Transit Company, a corporation, be and it is hereby authorized to acquire the foregoing properties and to issue and sell, at not less than par, \$26,000 of its

capital stock, and use the proceeds to pay in part, for the properties referred to in the opinion which precedes this order.

The authority herein granted to issue stock is subject to the following conditions:

1. Mount Lassen Transit Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue stock will become effective immediately. No stock may be issued, sold or delivered under such authority after October 1, 1925.

Mount Lassen Transit Company, a corporation, having applied to the Railroad Commission for a certificate of public convenience and necessity authorizing the consolidation and unification of certain operative rights as indicated in the opinion which precedes this order, a public hearing having been held, and the matter having been duly submitted and the Commission being now fully advised and basing its order on the statements and findings of fact set forth in the opinion:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the consolidation and unification of the operative rights of Mount Lassen Transit Company, a corporation, and the operation, as one unified system, of through service for the transportation of passengers, baggage and express (subject to the provisions of this order) between all the termini and intermediate points served by and along its present several routes, which routes are as follows:

1. Over the Red Bluff-Susanville highway between Red Bluff, Tehama County, and Westwood, Lassen County, via Payne's Creek, Mineral and Chester, operated pursuant to authority granted by this Commission's Decision No. 13651, in Application No. 10062, dated June 5, 1924, and Decision No. 14507, in Application No. 10764, dated January 30, 1925.

2. Between Keddie, Crescent Mills, Greenville, Forest Camp, Canyon Dam, Prattville, Almanor, Chester and Drakesbad and intermediate points operated pursuant to authority granted by this Commission's Decision No. 14737, in Application No. 10948, dated April 5, 1925.

3. Between Keddie, Crescent Mills, Greenville, Westwood and Susanville, operated pursuant to authority granted by this Commission's Decision No. 14737, in Application No. 10948, dated April 5, 1925.

4. Between Westwood and the point where the county road intersects the California-Nevada state line near Doyle, Lassen County, serving also intermediate points, operated pursuant to authority granted by

this Commission's Decision No. 7506, in Application No. 5363, dated April 30, 1920.

5. Between Westwood and Greenville, on the one hand, and Crescent Mills and Greenville, on the other, but not intermediate between Westwood and Greenville inclusive, as an extension of and in conjunction with the existing Susanville-Westwood stage line theretofore operated by said George A. Scott, operated pursuant to authority granted by this Commission's Decision No. 14338, in Application No. 9879, dated December 8, 1924.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation by Mount Lassen Transit Company, a corporation, of an express service for the transportation of packages upon its passenger stages, and not otherwise, between all the termini and intermediate points served by and along the routes last herein described, and in connection with the unified and consolidated operation of such routes herein permitted.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity do not require the operation by Mount Lassen Transit Company, a corporation, of an automotive truck service for the transportation of freight upon or along any of the routes herein described, or between any of the points thereof other than upon the route and between the points where such operative right now exists, to wit:

Between Keddie, Crescent Mills, Greenville, Forest Camp, Canyon Dam, Prattville, Almanor, Chester and Drakesbad, and intermediate points, operated pursuant to authority granted by this Commission's Decision No. 14737, in Application No. 10948.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to Mount Lassen Transit Company, a corporation, to consolidate the foregoing operative rights and to enable it to render through service under the aforesaid consolidated operative rights, and also to operate an express service upon said routes in connection with its passenger stages.

It is hereby further ordered, that said applications of Mount Lassen Transit Company, a corporation, and each of them, in so far as said applications or either of them seek or seeks the extension of any right to transport freight in addition to any existing right or rights of said Mount Lassen Transit Company, be and they are and each of them is hereby denied.

The authority herein granted to consolidate and unify such operative rights is subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate hereby granted within a period of not to exceed ten (10) days from date hereof; and shall file, in duplicate, tariff of rates, fares, rules and regu-

tions, and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariffs of rates and fares, rules and regulations, and time schedules to be identical with those attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed sixty (60) days from the date hereof, unless the time for commencement of operation hereunder hereafter extended by a supplemental order of this Commission.

2. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated, nor service thereunder discontinued unless the written consent of the Railroad Commission to each assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to and approved by this Commission.

For all other purposes, other than hereinabove specified, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this third day of July, 1925.

DECISION No. 15133.

IN THE MATTER OF THE APPLICATION OF OJAI POWER COMPANY,
A CORPORATION, FOR PERMISSION TO ISSUE ADDITIONAL
SECURITIES.

Application No. 11132.

Decided July 3, 1925.

SECURITIES—STOCK—TO ISSUE.—Ojai Power Company authorized to issue \$50,000 of its common stock.

W. Phillips, for Applicant.

BY THE COMMISSION.

OPINION.

Ojai Power Company asks permission in this application to issue 50,000 of common stock to pay the cost of constructing additions and betterments to its plants and properties.

Applicant has an authorized stock issue of \$100,000, divided into 1000 shares of \$100 each. As of May 31, 1925, all of applicant's stock is reported as outstanding. The board of directors of applicant have called a special meeting of applicant's stockholders for the purpose of considering and acting upon the proposition of increasing applicant's authorized stock from \$100,000 to \$200,000, said \$200,000 to be divided into 2000 shares of \$100 each.

For the three years ending December 31, 1924, applicant reports revenues and disbursements as follows:

Item	1922	1923	1924
Operating revenues -----	\$34,238 87	\$42,636 72	\$50,164 68
Nonoperating revenues -----	25 00	120 00	128 80
Total revenues -----	\$34,263 87	\$42,756 72	\$50,293 48
Operating expenses -----	26,377 56	32,940 98	37,814 50
Gross corporate income -----	\$7,886 31	\$9,815 74	\$12,478 98
Interest and other deductions -----	124 80	55 30	1,103 50
Balance for year -----	\$7,761 51	\$9,760 44	\$11,375 30
Dividends -----	4,710 00	5,594 30	8,032 00
Carried to surplus -----	\$3,051 51	\$4,166 14	\$3,343 30

As of May 31, 1925, applicant's balance sheet shows an accumulated surplus of \$16,725.74. It is of record that all of this surplus has been earned and is temporarily invested in applicant's properties and business.

Applicant's proposed construction expenditures in its electric and water departments are reported at \$26,000, of which \$5,300 is to be expended to extend and improve the company's water service, and \$20,700 to extend and improve the company's electric service. In addition, applicant submits that it may in the near future be called upon to expend \$17,000 for extensions, additions and betterments to its water and electric properties.

Applicant asks permission to sell \$30,000 of common stock to its stockholders at par. It is proposed that of the purchase price, the stockholders pay 66⅔ per cent in cash, while applicant charges the balance to its surplus account. In effect, applicant's proposal amounts to a declaration and payment of a \$10,000 stock dividend. We believe that the matter should be handled in a different manner, and that if applicant desires to pay a \$10,000 cash or stock dividend, it do so directly and not indirectly, as part of the purchase price of stock.

The order herein will authorize applicant to issue \$50,000 of stock at not less than par. Of the \$50,000 of stock, \$10,000 may be used to reimburse applicant's treasury and thereafter distributed as a dividend while \$40,000 of such stock shall be sold and the proceeds used for the purposes referred to in the following order.

ORDER.

Ojai Power Company, having applied to the Railroad Commission for permission to issue \$50,000 of common stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission

being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and that this application should be granted as herein provided; therefore,

It is hereby ordered, that Ojai Power Company be and it hereby is authorized to issue on or before December 31, 1925, \$50,000 par value of its common capital stock.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued, \$10,000 shall be issued at not less than par and the proceeds thereof used to reimburse applicant's treasury because of earnings expended for additions and betterments to its properties. After such reimbursement said stock may be distributed as a stock dividend, as permitted by law.

2. Of the stock herein authorized to be issued, \$40,000 shall be sold for cash at not less than par. Of the cash proceeds realized from the sale of said \$40,000 of stock, \$2,500 may be used to reimburse applicant's treasury on account of earnings expended for additions and betterments to its properties; \$5,300 may be used to finance the proposed expenditures for additions and betterments to applicant's water properties; and \$20,700 may be used to finance the proposed expenditures for additions and betterments to applicant's electric properties, all as referred to in exhibits filed in the above entitled matter.

3. Of the proceeds realized from the sale of the stock herein authorized to be issued, \$11,500 may be expended only for such purposes as the Commission will authorize by supplemental order or orders.

4. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to issue stock will become effective when applicant has filed with the Railroad Commission a certified copy of its amended articles of incorporation. Under the authority herein granted no stock may be issued, sold or delivered after June 30, 1926.

Dated at San Francisco, California, this third day of July, 1925.

DECISION No. 15138.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE BY IT OF FORTY THOUSAND DOLLARS PRINCIPAL AMOUNT OF ITS FIRST MORTGAGE SINKING FUND GOLD BONDS, SERIES "A."

Application No. 11325.

Decided July 3, 1925.

SECURITIES—BONDS—TO ISSUE.—Port Costa Water Company authorized to issue and sell \$40,000 of its first mortgage, Series A, 6½ per cent bonds.

Jones and Dall, by *C. G. Dall*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Port Costa Water Company asks the Railroad Commission to make an order authorizing it to issue and sell, at not less than 98 per cent of their face value, plus accrued interest, \$40,000 of its first mortgage Series "A" 6½ per cent bonds due July 1, 1936, for the purpose of reimbursing its treasury because of income expended for the acquisition or construction of permanent improvements and to finance the cost of additional improvements to its properties.

By Decision No. 13690, dated June 12, 1924, as amended, the Commission authorized applicant to execute its first mortgage to The Bank of California, National Association, trustee, to secure the payment of an authorized issue of \$1,500,000 of bonds and to issue and sell \$450,000 of such bonds which were designated Series "A," dated July 1, 1924, due July 1, 1936, with interest at 6½ per cent per annum. Thereafter by Decision No. 14129, dated October 4, 1924, the Commission authorized applicant to issue and sell an additional \$60,000 of Series "A" bonds, making a total of \$510,000 of bonds outstanding.

Under the authority granted by Decision No. 13690, the company has used the proceeds from the sale of \$427,000 of the \$450,000 of bonds to pay indebtedness, to provide working capital and to finance the cost of expenditures made prior to June 1, 1924, and from the sale of the remaining \$23,000 of bonds to finance construction expenditures made subsequent to June 1, 1925. The proceeds from the sale of the \$60,000 of bonds authorized by Decision No. 14129 were used to finance in part the cost of acquiring 364.9 acres of water-bearing land in what is known as the Government ranch near Clyde in Contra Costa County.

The company now reports, in Exhibit "B," that from June 1, 1924, to February 13, 1925, it expended \$30,145.57 for capital purposes, of which \$21,620 was obtained from the sale of the \$23,000 of bonds authorized by Decision No. 13690, leaving a balance of \$8,525.57, against which no bonds have been issued. It further reports that the increased demand for water has made it necessary for it to sink wells on the 364 acres of land, to erect the necessary pumping plants and to connect the new wells by a twelve-inch cast-iron pipe line with its main pumping plant at Galindo station, all at an estimated cost of \$75,000. It also reports that additional pipe lines and other equipment are needed to adequately take care of the towns of Crockett and Valona, \$13,000 being required for this purpose, the two estimates aggregating \$88,000.

The company's estimated expenditures are reported in Exhibit "A," as amended, as follows:

Twelve-inch cast-iron pipe from a point on the west side of highway near Clyde and about 60 feet south of S.E. corner of Bay Point Utilities Company's property to Galindo, 12,200 feet-----	\$31,720 00
Three thousand feet collecting mains (mostly 8-inch) from wells Nos. 101, 102, 103 and 104 to 12-inch cast-iron pipe, above-----	4,500 00
Four pump houses and derricks-----	800 00
Vell No. 104 (334 feet deep)-----	3,000 00
Vell No. 103 (bored 500 feet, cased 459 feet)-----	4,400 00
Vell No. 101 (being deepened to 350 feet)-----	2,000 00
Power lines for wells Nos. 101, 102, 103 and 104-----	1,580 00
Two new wells, 650 feet deep-----	15,600 00
Two new pumping plants complete with pump, motors, fittings, electric fixtures, etc.-----	4,800 00
Six hundred sixty feet of 12-inch cast-iron pipe-----	2,500 00
Two cottages, garage and shop-----	3,000 00
Power lines for two new wells-----	1,100 00
Company's share of Crockett and Valona jobs-----	13,000 00
Subtotal-----	\$88,000 00
Less amount already paid-----	3,347 50
Total-----	\$84,652 50

Adding the \$84,652.50 to the reported uncapitalized balance of \$8,525.57 results in a total of \$93,178.07 of expenditures to be financed in part, with the proceeds from the sale of the \$40,000 of bonds herein applied for.

ORDER.

Port Costa Water Company, having applied to the Railroad Commission for permission to issue and sell \$40,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Port Costa Water Company be and it hereby is authorized to issue and sell, on or before September 30, 1925, at not less than 98 per cent of their face value and accrued interest, \$40,000 of its first mortgage Series "A" 6½ per cent bonds due July 1, 1936, for the purpose of reimbursing its treasury and of financing in part, the cost of the additions and betterments to which reference is made in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. Only such expenditures as are properly chargeable to capital accounts under the uniform classification of accounts prescribed by the Railroad Commission may be financed with the proceeds from the sale of the bonds herein authorized to be issued.

2. Port Costa Water Company shall keep such record of the issue and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, made a part of this order.

3. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is forty dollars.

Dated at San Francisco, California, this third day of July, 1925.

DECISION No. 15140.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUE AND SALE OF SIX HUNDRED THOUSAND DOLLARS OF ITS FIRST AND REFUNDING MORTGAGE SINKING FUND FIVE AND ONE-HALF PER CENT GOLD BONDS, SERIES "C."

Application No. 11235.

Decided July 3, 1925.

SECURITIES—BONDS—TO ISSUE.—The California-Oregon Power Company authorized to issue and sell \$600,000 of its first and refunding mortgage sinking fund gold bonds, bearing interest at the rate of 5½ per cent per year.

Dunne, Brobeck, Phleger and Harrison, by Herman Phleger, for Applicant.

BY THE COMMISSION.

OPINION.

In this application The California-Oregon Power Company asks the Railroad Commission to make an order authorizing it to issue and sell at not less than 96 per cent of face value and accrued interest, \$600,000 of its first and refunding mortgage Series "C" bonds to complete the construction of its hydro-electric plant, known as "Copco No. 2" and to reimburse its treasury.

Applicant has been engaged in building a hydro-electric plant known as "Copco No. 2," on the Klamath River, about one and one-quarter miles below the original "Copco No. 1" plant. As reported in a former application, No. 10057, "Copco No. 2" will, when completed, have installed generating capacity of 30,000 kilovolt amperes and will operate under a static head of 156 feet. It was reported that the hydraulic structures consist of a small concrete diversion dam across the Klamath River, two concrete-lined tunnels, one 2470 feet long and one 1275 feet long, 1200 feet of wood-stave pipe 15 feet in diameter and two riveted steel-pressure lines, each 736 feet long and 12½ feet diameter. The power plant building will house two vertical hyd

electrical units, each of 15,000 kilovolt ampere capacity, with the necessary auxiliary equipment. From the plant to Delta, California, a distance of about 82 miles, applicant has constructed or is constructing a high voltage transmission line.

In the former application the company estimated the cost of the plant and transmission line at \$3,690,095, segregated as follows:

Hydro-electric plant -----		\$2,915,000 00
Lands -----	\$10,000 00	
Camps -----	25,000 00	
Construction plant -----	150,000 00	
Dam and intake -----	229,500 00	
Conduits -----	740,000 00	
Surge chamber and penstock -----	300,000 00	
Power house -----	185,000 00	
Hydraulic equipment -----	165,000 00	
Electrical equipment -----	422,500 00	
Undistributed items, engineering, superintendence, contingencies and overhead -----	688,000 00	
Transmission line -----		755,095 00
Rights of way and survey -----	143,265 00	
Transmission poles and fixtures -----	172,496 00	
Transmission overhead system -----	310,225 00	
Transmission switches -----	6,997 00	
Communication system -----	24,857 00	
Undistributed items -----	116,255 00	
Maintaining service during construction -----	1,000 00	
Total -----		\$3,690,095 00

By Decision No. 13627, dated May 31, 1924, in Application No. 10057, the Commission authorized applicant to issue and sell \$2,500,000 of first and refunding mortgage Series "B" bonds, \$1,500,000 of debentures and \$1,000,000 of preferred stock to finance the cost of the power plant and transmission line and of additions and betterments during 1924. It is now reported that the original estimate of cost has been increased, due to additional items not included, changes in plans and other causes, and that to take care of the increased cost of "Copeco No. 2," and the general construction expenses of the company during 1925 it has been found necessary to issue additional \$600,000 of bonds.

The bonds proposed to be issued are part of an authorized issue of \$10,000,000 of bonds, issuable in series and secured by a first and refunding mortgage, dated as of February 1, 1921, to Mercantile Trust Company (San Francisco), trustee. Heretofore the Commission has authorized the issue of applicant's first and refunding mortgage bonds as follows:

Series "A" 7½ per cent bonds due 1941 -----	\$2,000,000 00
Series "B" 6 per cent bonds due 1942 -----	4,500,000 00
Series "C" 5½ per cent bonds due 1955 -----	2,000,000 00
Total -----	\$8,500,000 00

The Series "C" bonds to be issued are dated February 1, 1921, and due February 1, 1955, and are callable on any interest payment date at a premium of one-tenth of one per cent for each year, or fraction thereof, of their unexpired term. Applicant has made arrangements to sell the \$600,000 of bonds, subject to the approval of the Commission at 96 per cent of face value plus accrued interest.

ORDER.

The California-Oregon Power Company having applied to the Railroad Commission for permission to issue and sell \$600,000 of bonds, public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The California-Oregon Power Company be and it hereby is authorized to issue and sell at not less than 96 per cent of their face value and accrued interest, \$600,000 of its first and refunding mortgage series "C" 5½ per cent bonds and use the proceeds other than the accrued interest for the purpose of reimbursing its treasury and of financing in part, the cost of the construction work to which reference is made in this application and the evidence submitted in connection therewith, provided that only such expenditures as are properly chargeable to fixed capital accounts may be financed through the issue and sale of the bonds. The accrued interest may be used for general corporate purposes.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$600. Under such authority no bonds may be issued, sold or delivered after September 30, 1925.

Dated at San Francisco, California, this third day of July, 1925.

DECISION No. 15144.

THE MATTER OF THE APPLICATION OF LINGO BROTHERS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PERFORM A MOTOR FREIGHT SERVICE DAILY THROUGHOUT THE YEAR BETWEEN SAN BERNARDINO; ALSO REDLANDS, CALIFORNIA, AND ARROWHEAD LAKE RESORTS AND BIG BEAR LAKE RESORTS IN SAN BERNARDINO MOUNTAINS, CALIFORNIA.

Application No. 10089.

SAN BERNARDINO CHAMBER OF COMMERCE

vs.

MOTOR TRANSIT COMPANY (A CORPORATION), FIRST JOHN DOE, SECOND JOHN DOE, AND THIRD JOHN DOE.

Case No. 2036.

Decided July 7, 1925.

CERTIFICATE—AUTO CARRIER.—Complaint of San Bernardino Chamber of Commerce sustained sufficiently to warrant relief asked, and is dismissed.

TRANSPORTATION.—Defendant can not legally issue passes to agents who are also shippers, or pay them commissions on the freight handled where it would result in a reduction in the charges on the freight personally received or shipped by such agents.

NEW SERVICE.—Certificate granted to Lingo Brothers to operate auto truck service between San Bernardino and Redlands, on the one hand, and Big Bear Lake and Baldwin Lake resorts, on the other hand.

E. Libby and *Harry N. Blair*, for Applicant, and for Lingo Brothers, Intervenor in Case No. 2036.

Kidd and *Walter E. Byrne*, for Motor Transit Company, Defendant and Intervenor.

Holcomb, for Complainant.

Commissioner.

OPINION.

Lingo Brothers, a copartnership, consisting of Edward F. Lingo and Joseph P. Lingo, have applied to the Commission for a certificate of public convenience and necessity authorizing the establishment of an automobile truck freight service (1) between San Bernardino and Redlands and Arrowhead Lake and Cedar Glenn resorts; and (2) between San Bernardino and Redlands, and Big Bear Lake and Baldwin Lake resorts. Service is also sought to intermediate points, and points within ten miles of the highways to be traversed. All of the resorts mentioned are in the San Bernardino mountains. Attached to the petition are applicants' suggested tariff showing the proposed rates, rules and regulations, the proposed time schedules covering summer and winter service, and a statement of the equipment to be used, consisting of five and two 5-ton trucks. Applicants allege that they will perform the service throughout the year, as opposed to the weekly service now performed by the Motor Transit Company during the winter months; that their rates are lower than those of the Motor Transit Company, which are unusually high; that the service of the Motor Transit Company is

inadequate in that it has failed to furnish equipment sufficient to handle the tonnage offered; and that shippers prefer to patronize applicants, rather than Motor Transit Company, which is principally a passenger carrier.

The complaint of San Bernardino Chamber of Commerce, a voluntary civic association, against Motor Transit Company, a corporation, seeks the revocation of defendant's operative rights between San Bernardino, Redlands and all points in the San Bernardino mountains which it now serves. In respect of this service, complainant makes the following charges against defendant, viz: (1) Discrimination in passenger operations between persons and places as to rates, fares and service; (2) giving free transportation or reduced fares to persons not entitled thereto; (3) unauthorized abandonment of through passenger service as to certain parts of its route; (4) abandonment of freight operations during the summers of 1922 and 1923; (5) inadequate freight service during the summer of 1924 in that much of the business was handled on trucks leased on a percentage basis, contrary to the Commission's orders; (6) granting of unlawful rebates to freight shippers; (7) loss of confidence by the communities served in defendant's ability to render adequate service; and (8) the failure and inability of defendant to render an adequate freight or passenger service to the mountain section. In its answer, defendant Motor Transit Company specifically denied all the allegations of the complaint, and also raised certain objections to the form of the complaint, particularly to the failure to state the details of the acts or omissions charged. The parties, however, proceeded to trial upon the issues thus joined without further objection to the form of the pleadings, so these formal objections need not be considered further.

Public hearings were held at San Bernardino and the proceedings were consolidated for the purpose of taking testimony and for decision. Evidence was adduced, the matters were duly submitted following the filing of briefs and are now ready for decision.

I shall first discuss the application of Lingo Brothers for a certificate authorizing the operation of a freight service.

Application of Lingo Brothers.

The territory proposed to be served is situated in the San Bernardino mountains at an altitude of about 7000 feet above sea level. Consisting entirely of pleasure resorts, it has a summer population of over 7000, and about 500 in winter. In the summer season which begins in May and closes in October, about 67 resorts are open in the Big Bear section and thousands of cabins and private residences are occupied; in winter about 5 resorts are open in Big Bear and most of the private houses and stores are deserted. The population of the Arrowhead section is

definitely shown; however, it is much smaller than Big Bear. Since 1900 property values and the number of structures have increased greatly in both sections. The stores and other business places exist to supply the needs of the mountain population, there being no industries of any importance. Hence practically all the freight business is inbound. There are four routes from San Bernardino to Big Bear Valley at the eastern end of the mountains, including Baldwin Lake and Big Bear Lake, viz: The City Creek road, a distance of 38 miles; the Mill Creek road, which is operated under control, a distance of 48 miles; the Rim of the World route, a distance of 63 miles; and the Desert route, a distance of 96 miles. The latter is not used in summer, during the winter it is the only feasible route, the others being impassable. Lake Arrowhead lying at the western end of the mountains reached directly by the Waterman Canyon route, a distance of 23 miles from San Bernardino.

In 1920 the San Bernardino Mountain Auto Company, then operating a motor freight and passenger service to this territory, sold its right to the Motor Transit Company which ever since has continued the service. The Motor Transit Company has protested the granting of the application, and has appeared as a defendant in the proceeding brought by the San Bernardino Chamber of Commerce.

The applicants propose a daily summer freight service via the City Creek route, to be continued in winter as long as the roads are open. When that route is impassable, they propose to use the Desert route, or to curtail their service as to the points reached. As far as possible, trucks will operate daily throughout the winter. Higher rates will be charged for operation over the Desert route in winter, but the summer rates will prevail so long as the summer route is open. Applicants proposed to use 10 trucks, comprising three 5-ton trucks for heavy building materials, and seven 2½-ton trucks for other traffic. Of these they now have on hand seven trucks including two 5-ton, and five 2½-ton trucks. Three or four of these trucks will be used during the winter, it being necessary to find additional employment for the rest of the equipment. It is estimated that about four trucks will be idle during the winter season. These trucks were purchased by applicants since 1920 at a total cost of about \$48,000, including all appurtenances, of which amount about \$8,000 remains unpaid. The three trucks to be acquired, cost about \$15,000. Applicants estimate the present value of their equipment at from \$30,000 to \$35,000, from which they have deducted their total debts of about \$12,000, leaving a present worth of from \$18,000 to \$23,000. The purchase of this equipment was financed by E. M. Lash of Rialto and his associates. Mr. Lash testified that in the past, Lingo Brothers had promptly met all payments on their trucks, and that he would finance them in purchasing three more trucks,

which will be sold under conditional-sale agreements, the title to be retained by Mr. Lash until payment has been made.

Applicants have established a freight depot at San Bernardino and propose to open one at Redlands; no such facilities will be provided in the mountains as store-door delivery is there contemplated.

A number of shippers testified in behalf of applicants as to the need for additional freight service between San Bernardino and the mountains. In the aggregate their shipments would amount to about $6\frac{1}{2}$ tons a day. One of the applicants testified that during the summer they expected to handle from eight to ten truckloads daily to Arrowhead and Big Bear; in the winter the shipments would aggregate from three to four tons daily to Big Bear, and from $1\frac{1}{2}$ to $2\frac{1}{2}$ tons daily to Arrowhead. In addition, applicants expect to haul daily one tank-car load of fuel oil to Big Bear and another to Lake Arrowhead.

Several witnesses called by applicants, described the need for hauling heavy commodities such as building materials and cement. John D. Bates, a contractor, stated he had requests for hauling three to five tons a week of building material; John Dexter, a sawmill operator, shipped in about five tons a month of building materials, all of which moved in the private trucks of the supply houses, as he had found that finished lumber products were damaged when hauled by the Motor Transit Company in mixed loads; such, also, was the testimony of J. F. Loughton, a contractor, who ships from six to ten tons a week of lumber and building supplies; D. C. Swartz in charge of the San Bernardino County garage at Colton, stated that in 1924 Lingo Brothers hauled some heavy road machinery from Little Bear to San Bernardino which the Motor Transit Company would not handle, and he testified that the need for similar service, would arise about twice a year; J. E. Heuck testified that Lingo Brothers hauled from 50 to 100 tons of building material for him to the Arrowhead district in 1923, and that he himself hauled a smaller quantity in 1924, none of which was handled by Motor Transit Company because of its inability to deliver the shipments direct to him. Similar testimony was given by others as to the need for heavy hauling.

One of the applicants related a conversation had during May, 1922, with Mr. O. R. Fuller, president and general manager of Motor Transit Company, when the latter consented to Lingo Brothers hauling a large quantity of building material for the Arrowhead Lake Company in connection with a large building project, his testimony being corroborated by two witnesses who heard the conversation, and also by a representative of the Arrowhead Lake Company, who stated he had been advised by a representative of Motor Transit Company that the latter would not bid on heavy hauling. In explanation of this, Mr. F. D. Howell, vice president and assistant general manager of Motor Transit

Company, stated that they offered a lower bid than Lingo Brothers, but the latter were given the contract because the Arrowhead Lake Company could exact more from them in connection with this work than from Motor Transit Company. Mr. Lingo testified that applicants had been engaged in truck contracting and heavy hauling since 1919. Their operation, involving hauling under contracts between Colton and San Bernardino, on the one hand, were found illegal, and they were ordered to desist by the Commission's decision in *Motor Transit Company vs. Ed Lingo et al.*, Case No. 1789, Decision No. 12907, decided December 7, 1923. During the winter of 1923-1924, the applicants hauled oil to Arlington Lodge, on Lake Arrowhead, at the request of the manager, who preferred their service to that of Motor Transit Company which, he stated, was confined to express and mixed loads. Mr. Lingo stated that in so doing he acted under the advice of counsel.

In this connection it appears that other operators, for the most part uncertified by this Commission, are handling about 30 per cent of the total volume of freight moving to the mountains, at charges lower than those of the Motor Transit Company. One witness estimated that other operators, including the supply houses using their own trucks, handled three times as much building materials as Motor Transit Company.

As part of its service applicants offer a store-door delivery to all points on its route. Several of applicants' witnesses expressed a desire for this, stating that it would be a convenience and that Motor Transit Company had failed to accord them this privilege. One witness complained of the failure of Motor Transit Company to consolidate his shipments which in the aggregate exceeded 2000 pounds, the minimum which that company would deliver at his store. As a result, the shipments were delivered at the depot, where he had to call for them, and minimum charges were assessed upon several of the packages resulting in charges higher than those which would apply were the shipments combined. Mr. Howell explained that wherever the combined load exceeded fifty pounds no minimum charge was imposed, but occasionally separate collect shipments were received after the truck was loaded which could not then be practically combined with other shipments destined to the same consignee. However, they were endeavoring wherever possible to combine the shipments. Mr. J. C. Skinner, manager of Pine Knot Lodge at Big Bear, the largest shipper in that region, expressed satisfaction with the delivery of truck loads only at his door; for smaller shipments he was willing to go to the depot. Another witness in Bear Valley stated that store-door delivery would be a great inconvenience to him.

Some objection was voiced by resort owners and merchants to the late arrival of perishable freight by Motor Transit service. Its truck carrying perishables now leaves San Bernardino at 5 a.m., scheduled

to reach the mountains before noon but, according to the evidence, it is frequently late. Applicants propose to operate two refrigerator trucks, one serving Big Bear and the other, Lake Arrowhead. Perishables will be picked up at Redlands at 5 p.m., and at San Bernardino at 6 p.m. and stored on the trucks overnight. The Big Bear truck will leave San Bernardino at 3 a.m. and the Arrowhead truck at 4 a.m., both reaching their destinations at 8 a.m. Several merchants testified they would find such a service convenient and would patronize it, in preference to the Motor Transit service, and to local peddlers selling produce in the mountains. The manager of the Lake Arrowhead branch of Young's Market stated that the Motor Transit Company's truck carrying perishables, arrived too late, hence they were obliged to use their own truck. A produce dealer at San Bernardino testified that the Motor Transit perishable service leaving that point at 5 a.m. was too early, inasmuch as he did not receive produce from Los Angeles in time to load it on the truck. In his opinion the 8 o'clock service formerly maintained by Motor Transit Company was preferable. He stated he would use applicants' proposed service, loading produce on the trucks on the evening before shipment. However, other dealers and resort owners in the mountains testified that the Motor Transit Service was satisfactory, that no shipments had been damaged, and that an icing-truck service was unnecessary. Three of these witnesses, one of whom had formerly operated two produce markets, stated that applicants' proposed perishable service would be impracticable and unsatisfactory in that applicants would not be able to handle fresh produce, but only picked-over produce of the day before. They stated that fresh produce from the Los Angeles markets, which is the source of supply for all produce sold in the mountains, could not be delivered earlier than at present.

Applicants propose to furnish a daily winter service as opposed to the weekly service now afforded by Motor Transit Company. The City Creek route will be used so long as it is passable; when it is blocked by snow, the Desert route will be used. While operating over the Desert route applicants will serve only Cedar Glen and the north side of Lake Arrowhead, where freight will be delivered. From this point the consignees will be obliged to transport their freight in boats to points across the lake. Three witnesses called by applicants, testified to the need for more frequent winter service for the transportation of supplies, oil and gasoline, one of them complaining of the failure of Motor Transit Company to operate beyond Pine Knot. Various witnesses estimated the winter population in the mountains at from 350 to 500 people; over the holidays there is an influx of persons seeking winter sports, the extent of this movement not being clearly shown by the

record, but their number is substantial. On behalf of applicants the Weather Bureau observer at Squirrel Inn, in the Arrowhead section, stated that although the period of snow continued from January to April, the roads were open daily if constantly used, but if travel ceased because of heavy storms the roads would be impassable for three months at a time. A resort owner near Pine Knot, who had remained in the mountains during seven winters, testified that he had been snowed in only once and then for two weeks. Mr. Lingo testified that the roads have been greatly improved since 1920, and daily operation will keep them open throughout the winter. Witnesses were called by Motor Transit Company who described the severity of the winters in the mountains, stating that the roads were blocked and daily operation impossible. A witness who had been in the valley nine winters said that daily truck operation was impossible. Another witness stated that winter operation over the Desert route was extremely hazardous. However, one of protestant's witnesses admitted that an experienced driver could get through in winter. Two of protestant's witnesses expressed the opinion that daily truck service would not be profitable to the operator. On behalf of protestant, Mr. Howell stated that his company, in fulfillment of its promise, would inaugurate a tri-weekly service to Big Bear during the winter of 1924-1925.

Some complaints were made of the inadequacy of the Motor Transit service, such as discourtesy on the part of its San Bernardino representative, and its failure to adjust damage claims promptly. It was also charged that the Motor Transit Company discouraged the filing of damage claims by permitting and encouraging its drivers to create the impression among the shippers that the drivers themselves would ultimately bear the loss in all instances. This was denied by Mr. Howell, who stated that only in case of continued or culpable negligence, or wilful act, of any driver was he personally held responsible. The charge of discourtesy was denied by the agent in question, who was called as a witness; and it appeared from a statement filed by protestant that most of the damage claims had been satisfactorily adjusted.

The protestant, Motor Transit Company, called fourteen witnesses from various parts of the mountains, who endorsed its service. Many of them are large shippers; so far as they were questioned regarding the volume of their shipments it appears that in the aggregate their shipments by Motor Transit amount to about 450 tons of freight during the season. In substance, they testified that the Motor Transit freight service was satisfactory, that there was not room for two competing freight lines in the territory, and that an additional competitive freight service might impair the present satisfactory passenger service.

I shall now consider the complaint of the San Bernardino Chamber of Commerce against the Motor Transit Company (Case No. 2036),

seeking a revocation of defendant's operative rights in the San Bernardino mountains.

The issues involved in this proceeding are substantially as follows:

(1) That the Commission is without jurisdiction in that the institution of the proceeding was unauthorized, and that the complaint shows on its face that we are without jurisdiction.

(2) That Motor Transit Company has, in part, abandoned the operation of its passenger and freight service.

(3) That the service of Motor Transit Company has been inadequate, resulting in the loss of public confidence.

(4) That the Motor Transit Company has been guilty of unlawful discrimination, in respect to its rates and fares, including the granting of rebates and the unauthorized granting of free transportation or reduced fares, and also in respect to its service.

I shall discuss the evidence bearing upon these points.

Jurisdiction of the Commission.

The defendant asserts that the filing of the complaint and the prosecution of this proceeding was not authorized by the complainant, San Bernardino Chamber of Commerce, and that therefore the Commission is without jurisdiction to entertain the matter. The record shows that a committee was duly appointed by the Chamber of Commerce to consider the filing of this complaint, with full power to institute the proceeding should the committee in its discretion believe that such action was warranted. Furthermore, the committee's action in filing the complaint was ratified by the Chamber at a subsequent meeting. Therefore, I conclude that the filing of the complaint was authorized and that the matter is properly before the Commission.

Defendant also contends that inasmuch as this is a quasi-criminal proceeding, the complaint is too general in its allegations to confer jurisdiction upon the Commission. This proceeding is in no sense criminal, the only relief sought being the forfeiture of defendant's certificate. While the complaint is not to be commended as a model of precise pleading, nevertheless under the liberal rules of procedure which are followed by the Commission, I believe its allegations are sufficiently specific to apprise defendant of the charges against it. The ultimate facts are alleged, which is all that can be required.

Abandonment of Service.

The Motor Transit Company extended its lines to the San Bernardino mountains in 1920, when it acquired the operative rights and equipment of the San Bernardino Mountain Auto Line, which had served this territory since 1913. Complainant contended that defendant's service in this field had steadily decreased since 1920, notwithstanding the great increase in population and freight tonnage.

Perry Green, formerly one of the copartners engaged in conducting the Mountain line, testified that in 1920 the company had seventeen $\frac{1}{2}$ and 2-ton White trucks, used for both freight and passenger service, having a total freight carrying capacity of 44 tons. In the absence of records, he could not state the tonnage handled. Dexter Jones, a truck driver employed by Lingo Brothers, testified that in 1920 the Mountain line operated from 15 to 20 trucks of a capacity of $2\frac{1}{2}$ tons each, while in 1924 the defendant had but six 2-ton and one $\frac{3}{4}$ -ton trucks in service. He was unable to state the tonnage handled. Max H. Green, formerly one of the partners conducting the San Bernardino Mountain Auto line, and now defendant's traffic manager, testified that in 1920 eighteen trucks were sold by the Mountain line to defendant of which only half were then in good condition. Mr. F. D. Howell, defendant's vice president, described the equipment used in 1920 and subsequently, using the factory rating to gauge its capacity. A summary of the statement submitted (Exhibit 7), shows the capacity of the equipment to be as follows:

1920, 23 tons, 274 passengers (not including leased cars);

1923, 31 tons, 562 passengers (including leased cars);

1924, $33\frac{3}{4}$ tons, 562 passengers (including leased cars).

This includes cars convertible into freight or passenger carrying vehicles, and represents the total capacity whether the cars be used for freight or passengers. It was necessary, he stated, to rebuild half the equipment acquired from the Mountain line in 1920. Since 1924 "de luxe" cars only have been used in the passenger service, which seem to be quite satisfactory. Much of this equipment must be retired from service in winter, because of the much lighter traffic. As these cars are specially geared for mountain operation and can not economically be used on level roads, their idleness during the winter results in considerable loss which defendant is seeking to overcome by adapting the cars to both winter and summer use through the use of convertible transmissions. If successful, the resulting saving in operating costs will warrant a reduction in rates to the mountains, which may drive out some of the illegal operators who can thrive only by cutting the rates of the certified lines.

The leasing of equipment by defendant is also urged as an instance of its abandonment of service.

B. B. Tillitt testified that he had leased trucks to defendant during the three seasons of 1922 to 1924 inclusive. In 1922, his compensation was based on 85 per cent of the freight receipts, a separate lease being executed for each trip, when the freight charges were determined and the amount of his compensation inserted in the lease. In 1923 he executed an agreement with defendant leasing six of his trucks, and

fixing his compensation at 70 per cent of the freight receipts. Occasionally he hired other trucks which he in turn leased to defendant. A separate lease was made for each load, which fixed his compensation on a percentage basis. He provided the drivers and paid their wages. Defendant did not pay the drivers directly, but gave Mr. Tillitt separate checks payable to him individually for the amount of their wages, which were deducted from the percentage agreed to be paid to him. Thus the total amount paid to him, including drivers' wages equalled 70 per cent of the freight charges on the shipments handled in his trucks. In 1924 the leases provided a minimum trip rental of \$42 for each truck, based on a guaranteed minimum load of 6000 pounds per truck; for loads in excess of 6000 pounds the rental was based on 70 per cent of the freight charges on the excess load, which was added to the guaranteed minimum rental. Separate leases were made for each trip, when the amount of rental was agreed upon and inserted in the lease. Employer's liability insurance covering the drivers was carried by Mr. Tillitt. Four witnesses who had leased their trucks to defendant during the period mentioned, corroborated the testimony of Mr. Tillitt.

During 1920 the Mountain Auto line leased but from three to five trucks, as contrasted with the operations of defendant.

The looseness of defendant's practices in 1922 and 1923 with respect to equipment leases was admitted by Mr. Howell. It was also admitted that the rental was based on a percentage of the freight charges. The lax methods relative to payment of the drivers' wages were attributed to incompetent clerical help. In 1924, however, a new plan of leasing trucks was adopted, contemplating the payment of rental on a trip basis. To protect the lessor against overloads, additional compensation was provided for shipments exceeding 6000 pounds, which was the basis for all leases. Leases for each trip, rather than for a longer term, were made for convenience in accounting. Defendant also carried compensation insurance covering the drivers of leased trucks. Mr. Howell stated that during 1923 the car mileage of defendant's straight freight cars, combination cars when in freight service, and leased freight cars was as follows:

Motor transit freight cars.....	18,890.1 car-miles
Motor transit combination cars.....	34,984.8 car-miles
Leased freight cars.....	45,158.7 car-miles
Total.....	99,033.6 car-miles

Defendant's cars operated 53,874.9 car-miles, and the leased cars, 45,158.7 car-miles.

This witness also stated that in the past, defendant leased freight equipment so as to be in a better position financially to build up its passenger service. This, he asserted, has been accomplished, and defendant contemplates providing additional freight equipment sufficient to

handle the traffic without resorting to leasing any trucks except in emergencies.

Mr. Howell also testified that defendant's direct investment in its mountain division was \$137,525.13. This, however, included large increases over the purchase price in the value of its station facilities at San Bernardino and Redlands. However, it appears that defendant has a substantial investment dedicated to this service. The record also shows that since 1920 there has been a substantial increase in the tonnage handled by defendant over its mountain lines. Between 1920 and 1923 its passenger revenues over these lines increased 55½ per cent and its freight revenues 24 per cent.

Complainant also charged that defendant had so altered the "Rim-of-the-World" trip as to amount to a substantial abandonment of that service. This trip, it was shown, leading from Redlands and San Bernardino along the crest of the mountains, has been advertised as possessing many unsurpassed scenic advantages. Defendant has altered the original route so as to include Arrowhead. In the past there has been considerable controversy between complainant and defendant over the proper route to be followed. Dr. John N. Baylis, owner and proprietor of the resort known as Pine Crest, testified that defendant's present route did not include those portions of the original route affording the most attractive scenery, and he charged the defendant with a deliberate effort to eliminate the "Rim-of-the-World" trip altogether. Several witnesses testified that the trip was too arduous to be completed in one day, and that because of the great development since 1920, Lake Arrowhead should be included in the schedule. Mr. Howell testified that an agreement had been reached with complainant as to the route to be followed which he stated had been carried out by defendant.

adequacy of Service.

The testimony relative to defendant's alleged failure to accommodate heavy freight traffic, and dealing with service complaints, has already been discussed in connection with the application of Lingo Brothers. Most of the objections to defendant's passenger service is confined to its "Rim-of-the-World" operations.

Complainant offered testimony showing that defendant had failed to cooperate with the rail carriers reaching San Bernardino, particularly in respect to adjusting its schedules so as to afford reasonably close connections for passengers arriving at San Bernardino via the Pacific Electric Railway lines. Mr. Howell stated that he had endeavored to arrange for the accommodation of these passengers, but the railway company would not notify defendant when it had any passengers destined to mountain points, nor would it publish joint rates except for the "Rim-of-the-World" trip. He stated that defendant's schedules were

to some degree inelastic because of the controls maintained on the mountain roads, it being necessary that the schedules be so arranged as to avoid delay at the control points.

Several witnesses, called by defendant from the mountain territory involved, endorsed its service, both passenger and freight. Particular emphasis was laid on the passenger service which, they testified, had been greatly improved since 1923. Its service was also approved by a resolution introduced in evidence, adopted by a mass meeting of citizens held in Big Bear. Considerable controversy revolved around this resolution. One witness testified that but one large shipper supported it, all the other substantial shippers being opposed to it; another witness stated that the views of both sides were presented and discussed before the adoption of the resolution.

In this connection it appears that if defendant's certificate is canceled, all points along the Mill Creek route will have no transportation service, inasmuch as Lingo Brothers propose to operate over the City Creek route only. Witnesses called by defendant testified that there are several resorts on the Mill Creek route having a substantial summer population, all of which need a freight and passenger service. Mr. Lingo testified that the points he desires to serve can be reached as quickly by the City Creek route as by the Mill Creek route. This, however, does not afford any relief to intermediate points on the Mill Creek road, which applicants do not propose to serve.

Discrimination.

In support of its allegation that defendant's rates and fares applicable to the mountain service were discriminatory, complainant introduced a comprehensive tabulation prepared by Mr. H. N. Blair, showing many instances where charges for the longer haul were less than those for the shorter, the points involved being situated on the same route, and also indicating that the rates to some sections were on a higher plane than the rates to other sections. This compilation is in the nature of a tariff study, made without regard to the physical conditions surrounding the rates. There is no testimony from any shipper that the practical application of the rates resulted in undue prejudice or damage. Mr. Howell admitted that the rates, which in part had been inherited from the Mountain Auto line, were inharmoniously adjusted, and stated that an early revision of the tariffs would be made.

It is further charged that defendant's agents were the recipients of free transportation and reduced freight rates forbidden by law. Defendant's agents at some points are merchants who also receive their own inbound freight over defendant's lines. As compensation for their services, these agents are paid 10 per cent of the proceeds of tickets sold and $2\frac{1}{2}$ per cent of the receipts from inbound freight, the latter includ-

ng freight which they themselves receive. These agents devote but a small part of their time to the performance of their duties as agents. In addition to their commissions, these agents receive passes entitling them to free transportation over portions of defendant's lines. Mr. Towell, explaining this situation, testified that wherever possible, defendant utilized full-time employees as its agents, but at small points where the business was insufficient to justify the expense, defendant selected merchants as its agents, paying them as compensation a percentage of the revenue received from tickets sold and the outbound freight. In some instances even this was not enough, so in addition, such agents were paid a percentage of the inbound freight. To promote closer relations with the accounting department, passes were issued to these agents, good only in connection with company business, authorizing free transportation to Los Angeles, the headquarters of defendant's system where the auditor's office was situated. Passes issued to such agents in the San Bernardino mountains were good only as far as San Bernardino, the division headquarters. These agents, he testified, usually found their duties so exacting that the commissions paid were wholly inadequate. However, they received an indirect advantage through their ability to extend their contact with the public. When the business at these places developed sufficiently to sustain an agent, full-time employees were appointed. Mr. Fuller, president of defendant company, offered to discontinue the practice should it meet with the Commission's disapproval. Several shippers from the Arrowhead district testified that defendant delivered at their door all shipments, regardless of weight, notwithstanding a provision in defendant's tariff that such delivery service would be accorded only to shipments weighing 2000 pounds or more. In explanation of this discrepancy Mr. Towell stated it has become customary for defendant to provide free delivery for all shipments in the Arrowhead section, which is thinly populated, and nearly all freight is delivered to consignees on the main street of the village. Defendant's freight station at Arrowhead is quite small, consequently store-door delivery is more convenient. However, at Big Bear traffic density has increased to such a degree that store-door delivery, either in the town or at roadside points, is no longer feasible; there it has become necessary to deliver freight at stations in population centers where it can be redistributed. He stated that as population increases defendant will be obliged to adopt this method of delivery at all points, including Arrowhead. Otherwise, it will be impossible to maintain the schedule, particularly as regards perishable products.

As another instance of unauthorized departure from the published tariffs, complainant referred to an agreement made during 1921 between defendant and the management of four newspapers, one published in

San Bernardino and three in Los Angeles, for a special rate of \$16 a day on the combined shipments of these newspapers to the San Bernardino mountains. Mr. H. S. Webster, business manager of the San Bernardino *Sun*, testified that newspapers moved under this rate from July to September, 1921, when the newspaper companies found the service too expensive and consequently abandoned it. He further stated that no rebate was sought by any of the newspapers concerned. Mr. Howell testified that the newspaper companies, finding that an early delivery of their papers in the mountains was impossible under the existing schedules, approached the defendant with a view to establishing an earlier service, in which they were supported by the resort owners and the Big Bear Chamber of Commerce. Relying on the management's estimated daily tonnage of 1600 pounds, and in the expectation of developing additional business, defendant put on an early morning car for this service, charging the newspapers a rate of one cent a pound. The shipments were pooled and the charges prorated among the newspapers, one of them paying all the transportation charges monthly. The newspapers found the rate too high, and the anticipated additional freight movement did not develop, so consequently, the service was abandoned after being operated at a loss. In assessing the freight charges, an estimated weight was used, although occasionally the weights were charged. Mr. Howell admitted that the tariff did not permit freight charges to be assessed on this basis.

Complainant also charged that during 1923 defendant hauled large quantities of building materials and supplies for the Lakewood Lumber Company at Arrowhead Lake at rates lower than those provided by the tariffs. Complainant called Mr. C. W. Monahan, referee in bankruptcy at San Bernardino, who produced the original verified claim in bankruptcy filed by defendant in the bankruptcy proceedings involving the Lakewood Lumber Company. This shows that between April and July, 1923, defendant hauled building materials at a rate of 50 cents per 100 pounds, and also hauled supplies such as groceries at a rate of 75 cents per 100 pounds. Defendant conceded that the 50-cent rate on building materials was lower than the rate published in its tariff for this service. These shipments amounted to from 10,000 to 20,000 tons, the record being uncertain as to the exact quantity. Mr. Fuller testified that because of the large volume of business offered, a special contract was made with the Lakewood Lumber Company to transport building material to its yards and designated delivery points near Lake Arrowhead at a special rate of 50 cents per 100 pounds. Defendant hauled the shipments from San Bernardino, Colton, Victorville and other points. The Lakewood Lumber Company maintained its principal yard in San Bernardino, where other lumber companies also had their plants. Mr. Howell further stated that the right of a truck

carrier to contract specially with an individual for the transportation of property was then an open question, it being the opinion of some attorneys with whom he had consulted that such an arrangement was illegal. It was not until later, he stated, that the Commission ruled it had jurisdiction over such contracts. He testified that no other similar contracts were made by defendant. He also stated that for this reason defendant did not object to Lingo Brothers hauling building material under contract for the Arrowhead Lake Company (whose attorneys also reached the same conclusion), and defendant complained only when Lingo Brothers commenced hauling miscellaneous loads for others. When the Commission decided it had jurisdiction over contract carriers, he testified, defendant promptly ceased quoting special rates except as authorized by the Crittenden amendment of 1923 (Stats. 1923, chapter 10) relating to the transportation of farm products. He stated that in entering into this contract with the Lakewood Lumber Company, defendant acted on advice of counsel. The testimony of Mr. Herbert W. Kidd, defendant's attorney, substantially corroborated that of Mr. Howell.

I have endeavored to summarize the enormous mass of testimony introduced at the hearing, and have pointed out its relation to the various issues involved. In presenting my conclusions, any attempt to restate the evidence would unduly lengthen this opinion.

In my judgment the evidence shows a need for a truck service devoted to the handling of heavy commodities, such as building materials, cement and similar commodities. In this respect defendant's service has been inadequate; as to express matter and small shipments, defendant's service appears satisfactory. Nor does there seem to be any need for an additional perishable service, as suggested by applicants.

I, therefore, recommend that a certificate be granted to Lingo Brothers permitting the hauling of heavy commodities in truck loads only. It will be necessary, of course, in view of such decision, for applicants to modify their proposed time and rate schedules.

In my opinion, the evidence herein does not sustain the complaint of the San Bernardino Chamber of Commerce.

The leasing of equipment by defendant was not of such a character as to indicate an abandonment of its service. This appears to have been done to enable defendant to concentrate on the development of its passenger service; in the meantime freight shippers were adequately served. Moreover, it appears that defendant will install its own freight equipment, which will obviate the necessity of leasing any equipment. Defendant's methods of leasing equipment in vogue during 1922 and 1923 are not to be commended. In 1924 it eliminated most of the objectionable features of its leasing methods, but it has retained, in part, the practice of leasing on a percentage basis. This practice will

not be tolerated. In future, defendant will be required to comply strictly with the provisions of the Commission's General Order No. 67, regulating the leasing of equipment.

It also appears that defendant has complied substantially with the understanding reached with complainant as to the operation of the "Rim-of-the-World" drive. In this respect its service has not been abandoned. Nor does the evidence show that defendant's service is inadequate to a degree warranting the revocation of its certificate. The record shows that its passenger service is adequate; its freight service, except as to the handling of heavy commodities, also appears to be sufficient. It appears, however, that defendant has not properly cooperated with other carriers in conducting its mountain operations. In the future, defendant will be expected to coordinate its schedules with those of other carriers, particularly the Pacific Electric Railway Company, and to perfect better arrangements for handling passengers transferred from that carrier.

The question of rates is one that should have prompt attention. They should be revised, as promised by defendant, so as to prevent any undue preference of any section of the mountains. The tariff discrepancies do not appear to be sufficiently important to justify a cancellation of defendant's rights.

The issuance of free transportation, either passenger or freight, to agents who are at the same time shippers or receivers of freight is expressly prohibited by law. (Public Utilities Act, Sec. 17, Sub. 3; Auto Stage and Truck Transportation Act, Sec. 6 (b), Stats. 1921, chapter 840.) Therefore, defendant can not legally issue passes to agents who are also shippers, or pay them commissions on the freight handled where it would result in a reduction in the charges on the freight personally received or shipped by such agents. I am satisfied that in the past, defendant had no intention of granting rebates to these agents, its only purpose being the reduction of operating costs at points where the business was insufficient to justify the employment of salaried agents. Hence, I do not believe that defendant's act in this regard will justify a cancellation of its certificate. But the practice should be discontinued at once, and some other method adopted which will not conflict with the statutory law.

Store-door deliveries at Arrowhead and the arrangement made in 1921 to carry the newspapers to the mountains, appear to be departures from the tariffs published by defendant. But in this respect defendant's actions appear to be due rather to loose methods than to any guilty purpose of favoring some shippers at the expense of others. Hereafter the defendant will be expected to adhere strictly to its tariffs. If occasion arises for the reduction of a rate for some particular service,

the matter can readily be handled by the publication of a commodity rate.

The evidence shows that defendant hauled building material for the Lakewood Lumber Company at rates lower than those published in its tariff. A substantial part of the shipments moved from San Bernardino over a regular route of defendant for which rates were provided in its tariffs. Defendant admits that a special contract was made for this service, but asserts that it did so on advice of counsel. When these shipments were made (between April and July, 1923), opinion differed as to the Commission's power to regulate carriers transporting property under private contract, some branding as unconstitutional the amendment of 1919 to the Auto Stage and Truck Transportation Act (Stats. 1919, chapter 280) which purported to confer that power upon

At that time the Commission had not passed upon the question; it was not until later that a definite ruling was made, holding that the Commission had jurisdiction in such cases.

Motor Transit Co. vs. Ed. Lingo et al., Decision No. 12907, Case No. 89, decided December 7, 1923; *Bolton et al. vs. Olson & Rouch et al.*, Case No. 7787, Decision No. 12700, decided October 13, 1923.

The matter is now pending in the California Supreme Court, where review is sought of certain Commission decisions involving this question, no decision having yet been rendered by the court. I mention these matters to show the state of legal opinion upon this question, the content to which it has differed, and the seriousness of the controversy which has not yet terminated. This is important in that it indicates that defendant acted in good faith when it made and performed the contract. The record shows that subsequent to the Commission's decisions no similar contracts were made. Before such decisions were rendered, defendant was entitled to rely on the advice of counsel as to the validity of the contract. Viewing the matter in this light, I cannot say that defendant was guilty of granting an unlawful rebate when made or carried out this contract.

Upon full consideration of the evidence I am of the opinion and hereby find as a fact that public convenience and necessity require the operation by Lingo Brothers, a copartnership, consisting of Edward F. Lingo and Charles P. Lingo, of an automotive truck service for the transportation of the following commodities only, to wit: Building materials and supplies, lumber and finished lumber products, cement and machinery, in not less than full truck-load quantities; also fuel oil not less than tank carloads between San Bernardino and Redlands, on the one hand, and Arrowhead Lake and Cedar Glenn resort, on the other hand, including intermediate points; and between San Bernardino and Redlands, on the one hand, and Big Bear Lake and Baldwin Lake resorts, on the other hand, including intermediate points; and

including also points within three miles on either side of the main highways traversed.

Upon full consideration of the evidence, I am of the opinion and hereby further find as a fact that none of the allegations of the complaint filed herein by San Bernardino Chamber of Commerce against Motor Transit Company, are sufficiently sustained by the evidence to warrant the relief sought; consequently, said complaint should be dismissed.

I suggest the following form of order:

ORDER.

A public hearing having been held in the above entitled matter, the same having been duly submitted, the Commission being now fully advised, and basing its order on the findings of fact as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Lingo Brothers, a copartnership consisting of Edward F. Lingo and Charles P. Lingo; of an automotive truck service for the transportation of the following commodities only, to wit: Building materials and supplies, lumber and finished lumber products, cement, and machinery, in not less than full truck-load quantities, also fuel oil in not less than tank carloads between San Bernardino and Redlands, on the one hand, and Arrowhead Lake and Cedar Glenn resorts, on the other hand, including intermediate points; and between San Bernardino and Redlands, on the one hand, and Big Bear Lake and Baldwin Lake resorts, on the other hand, including intermediate points; and including also points within three (3) miles of either side of the main highways traversed.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted, subject to the conditions as hereinafter set forth:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, tariffs of rates and time schedules satisfactory to the Commission within a period of not to exceed twenty (20) days from date hereof; and shall commence the operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a con-

tract or agreement on a basis satisfactory to the Railroad Commission.

It is further ordered, that in all other respects the application of Lingo Brothers, a copartnership consisting of Edward F. Lingo and Charles P. Lingo, be and the same is hereby denied.

It is further ordered, that the complaint filed herein by San Bernardino Chamber of Commerce against Motor Transit Company be and the same is hereby dismissed.

It is further ordered, that for all other purposes, except as hereinabove stated, the effective date of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of July, 1925.

DECISION No. 15160.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION TO INSTALL TELEPHONE PLANT AND TO PUBLISH, FILE AND PUT INTO EFFECT RATES FOR EXCHANGE, INTEREXCHANGE AND TELEGRAPH SERVICE AT CARMEL, MONTEREY COUNTY, CALIFORNIA.

Application No. 10962.

Decided July 9, 1925.

CERTIFICATE—TELEPHONE UTILITY—RATES.—Certificate granted Pacific Telephone and Telegraph Company to operate a telephone exchange in the town of Carmel, Monterey County. Rates provided therefor. Primary exchange area defined.

James G. Marshall, for Applicant.

Edson Abel, for Protestants, California Farm Bureau Federation and Monterey County Farm Bureau and Farmer Telephone Lines 1-F, 2-F, 5-F and 10-F.

C. B. Foster, for Monterey Chamber of Commerce.

DECOTO, *Commissioner*.

OPINION.

This is a proceeding in which The Pacific Telephone and Telegraph Company requests that the Railroad Commission make its order granting applicant a certificate that public convenience and necessity require said utility to begin the construction of a plant or system for the purpose of establishing a telephone exchange in the town of Carmel, California, and to publish, file and place in effect, rates as set forth in its application.

A hearing was held in this matter in the town of Carmel, June 19, 1925, at which time and place the matter was submitted.

Carmel is a town of approximately 3000 population and is located about four (4) miles southwest of the city of Monterey. At the present time applicant is furnishing telephone service in the town of Carmel

and vicinity from its Monterey exchange located in the city of Monterey. There are in the entire present Monterey exchange area some 2690 subscribers of which approximately 400 are located in Carmel and surrounding territory.

Applicant states that due to the growth of Carmel, all available cable facilities between Monterey and Carmel have been exhausted and to continue to serve Carmel as at present will require the installation of additional cable facilities between Monterey and Carmel and that such construction will not result in economies that might be possible by the construction of a separate exchange at Carmel. Applicant further states that the present method of rendering telephone service to Carmel has retarded telephone development and that a separate exchange at Carmel will make available individual and party-line service at lower rates than those now applying to similar service furnished from Monterey, and that the proposed method of operation will allow a normal telephone development in Carmel. Applicant proposes local business and residence rates for Carmel which are 50 cents and 25 cents per month lower, respectively, than the rates for corresponding service now applying in Monterey. However, due to the fact that Carmel is approximately two and one-half ($2\frac{1}{2}$) miles beyond the primary rate area of the Monterey exchange, the resultant average charge under the proposed Carmel rates will result in a lower charge for local individual and party-line Carmel service of from \$2.50 to \$5 per month under corresponding rates for the same grade of service furnished from Monterey.

Applicant also proposes a charge of five cents for each message between Monterey and Carmel and a foreign exchange type of service which will allow any subscriber in Carmel to obtain direct Monterey service.

A comparison of the present Monterey rates applicable within the primary rate area of Monterey and in Carmel together with applicant's proposed local Carmel rates are shown in the table below:

	Present Rates		
	Within Monterey P. R. A.	Average rate in Carmel	Applicant's proposed rates in Carmel
Business Service—			
Individual line -----	\$4 00 per month	\$9 00 per month	\$3 50 per month
Two-party line -----	3 50 per month	7 00 per month	3 00 per month
Residence Service—			
Individual line -----	2 75 per month	7 75 per month	2 50 per month
Two-party line -----	2 25 per month	5 75 per month	2 00 per month
Four-party line -----	2 00 per month	4 50 per month	1 75 per month

The above rates apply to wall sets.

The sentiment of the people in Carmel is very much in favor of the establishment of the local exchange as proposed by applicant. There were, however, objections from certain farmer-line subscribers. These

scribers are located in Carmel Valley east of Carmel and along the Pacific coast south of Carmel and they receive service over lines which they own and maintain themselves and which are connected to applicant's system at the Monterey city boundary. These subscribers state that practically all of their telephone use is with subscribers in Monterey and that they seldom have need for Carmel local service. The attention of the farmer-line subscribers is to the charge of five cents for messages between Monterey and Carmel.

The problems in connection with the objections arising in this proceeding are not new in principle and have been met in numerous cases in the past and are bound to arise in any community that is growing and expanding. The question of the establishment of an exchange at Carmel would not be at this time at issue if Carmel had not already become a definite growing community with prospects for further rapid development. When a community reaches the stage of development which now exists at Carmel at the present and also is located at a distance from any other community, it can be served most economically by the establishment of a central office in that community.

The relative charge for service between different subscribers together with the proper spread of rates between these subscribers are important considerations here to be considered and it is these that are fundamentally involved in the objections of the farmer-line subscribers. The total revenue paid by the subscribers of any exchange is made up of the sum of the local exchange revenue and toll revenue. For a given total revenue requirement a decrease in toll charges can only result in an increase in exchange charges. The reverse is also true and for a given toll revenue requirement an increase in toll charges can only result in a decrease in exchange charges. In determining the relation between exchange and toll rates the telephone development of a community and the use of telephone service by different subscribers are the important factors to consider.

Too high an exchange rate retards the natural telephone development in any community. This can not be better illustrated than by the existing telephone conditions in Carmel. Here is a town having a population of 3000 people and only 400 telephone subscribers of which over 90 per cent are subscribers to suburban or ten-party line service. In this community the use of telephone service by different subscribers varies from a few calls to many. Charges for service must take this varying use into consideration; otherwise, the small users find the rates so high that they can not subscribe for service. This fact is largely responsible for the present telephone development in Carmel.

The combination of exchange rates applied to a local service in a community with toll rates to other communities provides a means for

the establishment of a relatively low rate for local service and for the additional payment for service to these other communities which will be in proportion to the use made of that service. The establishment of the rates as herein proposed will make available to Carmel individual and party-line service at rates comparable with those for like service in similar localities throughout the state.

The farmer-line subscribers claim, due to the fact of their larger use of Monterey service, that they should continue to be connected to the Monterey exchange and be exempt from any toll charge. Those subscribers in Carmel making a large number of calls to Monterey or those subscribers in Monterey making a large number of calls to Carmel that may be charged in proportion to their use of service is the very purpose of the system of exchange and toll rates now existing not only in California but throughout the country.

Rules and regulations authorized by this Commission governing the operation of telephone utilities throughout this state require that a farmer line shall be connected to the exchange within which the subscribers of that line are located and shall not extend into another exchange. The rule relative to this point as set forth in Decision No. 13478, dated April 24, 1924, reads:

*Rule and Regulation No. 21, Section B—Farmer Line Service. * * **
A farmer-line station shall not be located within the primary rate area. A farmer line shall not extend across an exchange boundary.

Allowing these farmer lines to remain connected to the Monterey exchange will not only be contrary to the rules governing the operation of telephone utilities as established by this Commission, but also contrary to one of the fundamental principles relative to the establishment of an exchange in which any subscriber of that exchange, for the local rate which he pays, is entitled to access to all other subscribers of that exchange. Continuing these farmer lines into Monterey will require other subscribers in Carmel in calling these farmer-line subscribers to pay the Monterey toll charge.

This Commission has recognized the fact that a subscriber located in one exchange area may have a demand for direct service from some other exchange area. In order that this service might be rendered, the Commission has required telephone utilities to establish a foreign exchange service which provides means whereby a subscriber located in one exchange area may receive direct telephone service from any other area. This service applied to the present situation will allow any Carmel subscriber to receive direct service from the Monterey exchange. A schedule for this foreign exchange service will be established in the order following and will be available to all subscribers of the Carmel area including the farmer-line subscribers.

om a careful consideration of the various methods by which service l be rendered to these farmer-line subscribers, to their requests objections, to the needs and rights of the other subscribers, it ars that allowing these farmer lines to remain connected to the erey exchange after the Carmel exchange is established would be ir and unjust to the other Carmel subscribers and contrary to established telephone practices. However, those subscribers in el who may desire direct Monterey service may obtain this ce under a foreign exchange rate designed particularly for this und.

ould the farmer-line subscribers desire service from the Carmel ange, the entire cost of the changes required to disconnect these from the Monterey exchange and reconnect them to the Carmel ange should be made by the Pacific Company. In making these ges, the Pacific Company should agree to purchase from or hand to the owners such materials as may be salvaged in making the mnections. This the company testified it would be willing to do. e subscribers should, however, be given ample opportunity to e such changes as will be necessary and the order following will r these subscribers to continue the present service from the Mon- r exchange for approximately one year up to June 30, 1926. Before Pacific Company purchases any material from the farmer-line sub- ers, the transactions should be first approved by this Commission. ie rates as proposed herein by applicant are those rates now in t in other cities of similar size as Carmel, and under existing condi- they appear to be reasonable. There appears to be no good reason request of applicant should not be granted.

ORDER.

ie Pacific Telephone and Telegraph Company having made request the Railroad Commission of the State of California make its order ting applicant a certificate that present public convenience and ssity require said utility to begin the construction of a plant or m for the purpose of establishing a telephone exchange in the of Carmel, California, and to publish, file and place in effect the s as set forth in this application.

public hearing having been held and the matter having been mitted and now being ready for decision, the Railroad Commission ie State of California hereby declares that public convenience and ssity require The Pacific Telephone and Telegraph Company to ublish an exchange in the town of Carmel and to publish, file and e in effect rates as hereinafter provided and basing its order on foregoing findings of fact and upon other findings of fact as are orth in the opinion preceding this order;

It is hereby ordered, that The Pacific Telephone and Telegraph Company be granted a certificate of public convenience and necessity to establish a telephone exchange in the town of Carmel and surrounding territory as hereinafter provided and to furnish telephone and telegraph service therein.

It is hereby further ordered, that The Pacific Telephone and Telegraph Company shall:

(1) Commence construction work in connection with the establishment of the Carmel exchange on or before August 1, 1925.

(2) File information with the Railroad Commission showing that the order in section (1) above has been complied with, not later than five (5) days after the beginning of said construction work.

(3) Render and furnish exchange and toll telephone and telegraph service in the Carmel exchange on and after January 1, 1926, under the rate set forth in Exhibit "A" attached hereto.

(4) Establish a primary rate area and an exchange area for Carmel exchange as set forth in Exhibit "B" attached hereto.

(5) File with the Railroad Commission on or before August 15, 1925, the rates set forth under Exhibit "A" attached hereto.

(6) File with the Railroad Commission on or before August 15, 1925, map showing the primary rate area and exchange area for the Carmel exchange as set forth in Exhibit "B" attached hereto.

(7) Furnish farmer-line service to the farmer lines existing as of June 19, 1925, and connected to the Monterey central office and extending into the Carmel exchange area hereinafter established for a period up to and including June 30, 1926, unless such service is discontinued prior thereto.

Dated at San Francisco, California, this ninth day of July, 1925.

EXHIBIT "A."

RATES.

EXCHANGE SERVICE SCHEDULES.

Service.

General Service—Carmel.

Applicable to business individual line and two-party line flat rate service, and residence individual line and party line flat rate service furnished within the primary rate area of the Carmel exchange.

Rate.

	Rate per month	
	Wall set	Desk set
(1) Business flat rate service—		
Each individual line station.....	\$3 50	\$3 75
Each two-party line station.....	3 00	3 25
Each extension station.....	1 00	1 00
(2) Residence flat rate service—		
Each individual line station.....	2 50	2 75
Each two-party line station.....	2 00	2 25
Each four-party line station.....	1 75	2 00
Each extension station, without bell.....	50	75
Each extension station, with bell.....	65	1 00

Other Service—Carmel.

Other rates and charges as set forth in Sheets C. R. C. Nos. 9804-T, 9805-T, 9806-T, 9807-T, 9810-T, 9811-T, 9812-T, 9813-T, 9814-T, 9815-T, 9818-T, 9819-T, 9820-T, 9821-T, 9823-T, 9824-T, 9825-T, 9827-T, 9829-T, 13649-T, 9833-T, 9834-T, 13081-T, 9835-T of the rate schedules of The Pacific Telephone and Telegraph Company, as filed with the Railroad Commission.

FOREIGN EXCHANGE SERVICE SCHEDULE.*Service.**Foreign Exchange Service—Carmel.*

Applicable to Monterey exchange service furnished in the Carmel exchange area.

Rate.

		Monterey exchange service furnished in Carmel exchange area
(1) Individual line service—		
(a) Station rate:		
Each primary station, per month, wall set.....		\$6 00
Each primary station, per month, desk set.....		6 25
(b) Mileage rate:		
Each primary station, per month, per each one-half mile or fraction thereof.....		3 00
(c) Extension station rate	Local rate	
(2) Commercial private branch exchange service—		
(a) Switchboard rate	Local rate	
(b) Station rate	Local rate	
(c) Trunk rate:		
Local trunks	Local rate	
Each foreign exchange trunk, per month.....		\$8 00
(d) Mileage rate:		
Each private branch exchange trunk line, per month, per each one-half mile or fraction thereof.....		3 00

Conditions.

1. The above mileage rate is based on the air-line distance measured between the subscriber's primary station or private branch exchange switchboard and the nearest point on that portion of the southerly boundary of the Monterey exchange area between its point of intersection with the Presidio Military Reservation, Monterey, and the northwesterly corner of the James Meadows tract.

2. Foreign exchange service will be furnished subject to the same conditions as to the use of the service by others than the subscriber and his representatives which are applicable in connection with other classes of subscribers' telephone service. Joint user service will not be permitted.

3. The phrase "Local rate" as herein used, refers to the rate applying in the exchange within which that particular primary station or private branch exchange switchboard is located.

4. Subscribers to foreign exchange service are required to take service of the exchange from which local service normally would be rendered on the premises on which foreign exchange service is furnished.

5. The scope of local service for, and the toll rates to and from individual line stations or private branch exchange systems connected for foreign exchange service will be in accordance with the tariff provisions of the foreign exchange for the particular class of service furnished.

6. Extension stations and private branch exchange stations referred to above will be installed on the premises on which the primary station or private branch exchange switchboard is located.

7. Extension stations and private branch exchange stations will be installed off the premises on which the primary station or private branch exchange switchboard is located, in accordance with the following:

(a) Each extension station or private branch exchange station will be provided for the use of the subscriber only and will be located on the subscriber's premises.

(b) Mileage rates as shown in Schedule No. A-10 are applicable to outside extension stations and outside private branch exchange stations, in addition to the rates for extension stations or private branch exchange stations on the premises on which the primary station or private branch exchange switchboard is located.

(c) Subscribers, who have not subscribed for foreign exchange service and for whom an extension station or private branch exchange station is installed in a foreign exchange area, will be required to take service of the exchange from which local service normally would be rendered on the premises on which such extension station or private branch exchange station is located.

RATES FOR TOLL TELEPHONE SERVICE.

Rates for toll telephone service between Carmel and any other toll point are the rates determined in accordance with the terms and conditions of Order No. 2495, dated December 13, 1918, and Order No. 2797, dated February 17, 1919, amendatory thereto, of the Postmaster General of the United States, with the exception noted below; provided, however, that as to any toll points on a connecting line over which rates established by the Postmaster General do not apply, the rate shall be the sum of the rate between Carmel and the connecting point on such line to which such rates established by the Postmaster General do apply, and the rate in effect between this connecting point and the toll point.

The exception referred to above is as follows:

(1) Between Carmel and Monterey station-to-station service only will be furnished.

(2) Between Carmel and Monterey the initial station-to-station rate will be five cents (\$0.05).

Initial and overtime periods and overtime rates will be, in all cases, as set forth in the orders of the Postmaster General, referred to above.

RATES FOR TELEGRAPH SERVICE.

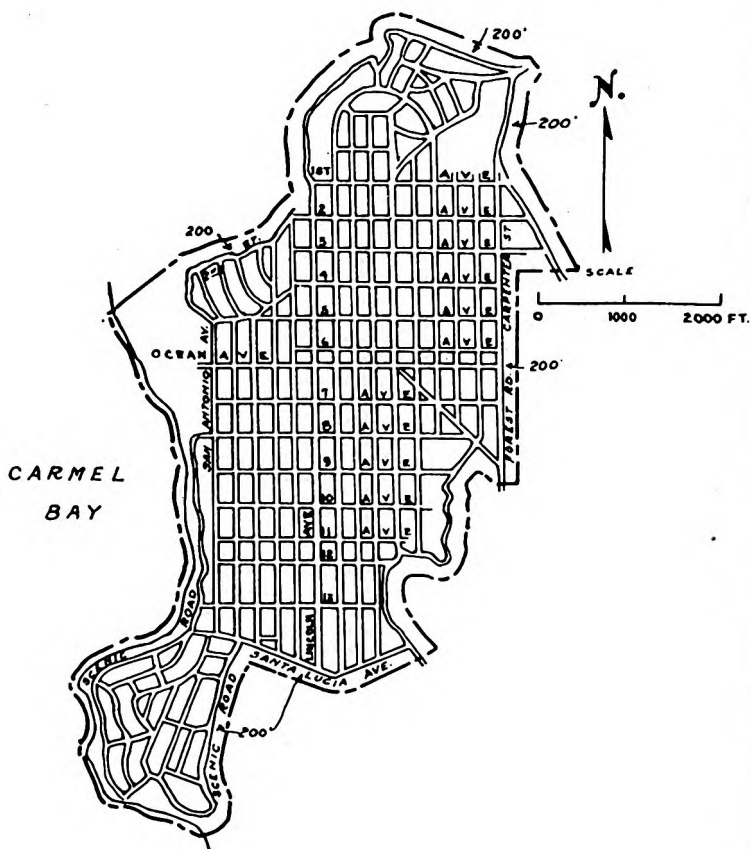
The rates for telegraph service between Carmel and other telegraph points shall be those rates determined in accordance with the standard methods set forth in the telegraph rate schedules of The Pacific Telephone and Telegraph Company on file with the Railroad Commission.

EXHIBIT "B."

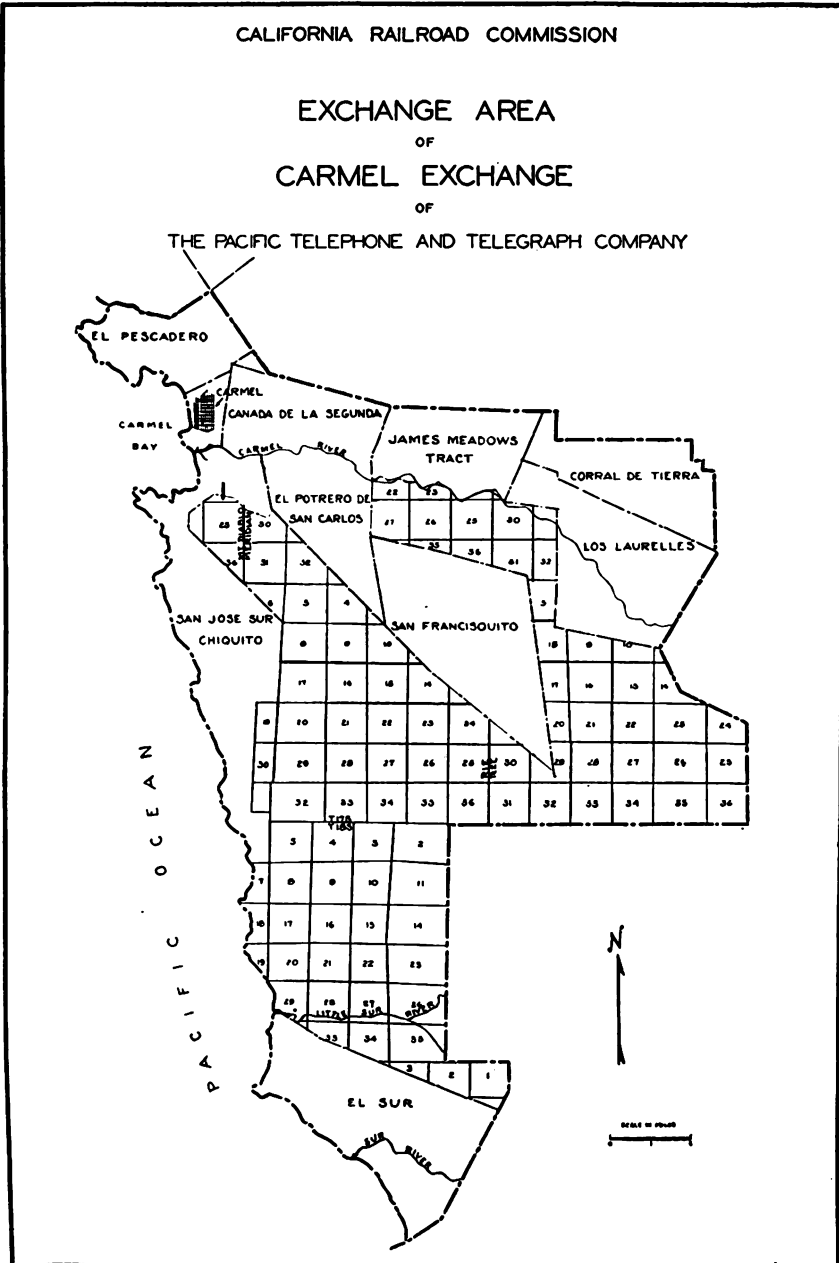
MAP OF PRIMARY RATE AREA AND EXCHANGE AREA OF
CARMEL EXCHANGE.

T-250706-1

CALIFORNIA RAILROAD COMMISSION

PRIMARY RATE AREA
OF
CARMEL EXCHANGE
OF
THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY

T-250706-2



DECISION No. 15166.

COASTSIDE TRANSPORTATION COMPANY

vs.

MANUEL BELLO.

Case No. 2053.

Decided July 10, 1925.

CERTIFICATE—AUTO CARRIER—UNLAWFUL OPERATION.—Defendant ordered to discontinue service until such time as he shall have obtained a certificate of public convenience and necessity. District attorneys of city and county of San Francisco and of San Mateo County notified.

Harry A. Encell and James A. Miller, by James A. Miller, for Complainant.
Arnborn and Rochl and De Lancey C. Smith, by De Lancey C. Smith, for Defendant.

MAVEY, Commissioner.

OPINION.

Coastside Transportation Company, a corporation, operating and rendering an automobile passenger, freight and express service as authorized by the Railroad Commission between San Francisco and Pigeon Point and intermediate points by way of Salada and Moss each and also between San Francisco and Pigeon Point by way of Olma, San Mateo and Half Moon Bay, makes complaint in which it alleges that Manuel Bello has for some time past been engaged in the business of owning, controlling, operating or managing automobile trucks in the business of transporting property, or as a common carrier, for compensation over the public highways over a regular route between the city and county of San Francisco and the town of Half Moon Bay without having obtained a certificate of public convenience and necessity from this Commission authorizing said operations. Complainant prays that the Railroad Commission, after due hearing and investigation, issue its order compelling defendant to cease and desist his operations as a transportation company, or as a common carrier, property for compensation and for such further order as may be proper.

Defendant, in his answer, makes general denial of the matters and allegations contained in the complaint.

A public hearing was held in this matter at San Francisco, was duly submitted following the receipt of briefs, and it is now ready for decision.

The evidence presented by complainant in Case No. 2053 shows that Manuel Bello has transported various commodities from and to San Francisco and other points to Half Moon Bay for several years. Cereal beverage has been transported from Milwaukee Brewing Company at San Francisco to a distributor at Half Moon Bay, the distributor paying transportation charges for the beverage and the brewing company

paying for the return of the empty cases. These operations have been carried on for about seven years, as demands for the service required.

Ice has been transported for about seven years from San Francisco to Half Moon Bay, and from January 4 to November 26, inclusive, 1924, the consignments totaled 54, the dates of consignment indicating a regularity of service.

Omitting detailed mention, the record discloses transportation by defendant, Manuel Bello, from San Francisco to Half Moon Bay, of machinery and parts, flour, general merchandise, electric supplies and equipment, metal and other commodities. San Francisco in all cases was not a terminal, shipments being made via defendant's truck from or to Gilroy, San Jose, San Leandro and other points to or from Half Moon Bay in addition to the San Francisco-Half Moon Bay service.

Defendant, Manuel Bello, testifying in his own behalf, agreed with the testimony given by complainant's witnesses as to his operations and service. He stated that he had been engaged in general trucking business since 1916, the equipment consisting of one truck. No regular schedule was maintained as he went "all around the country any place I can get a job," and trips to and from San Francisco were made "any time anybody calls on me."

The record is clear that defendant, Manuel Bello, has transported by auto truck various commodities for compensation over the public highways and has so continued for several years without a certificate of public convenience and necessity from this Commission as required by the provisions of chapter 213, Statutes of 1917, and effective amendments thereto. The contention that this service is not regular, or on demand, can not be seriously considered, the service having been rendered with sufficient regularity so that it was an accepted method of receiving and shipping certain commodities. Transportation may be furnished "on demand" and certain automobile carriers are so authorized to operate by this Commission. Even if the service rendered were irregular, that would not relieve the defendant from complying with the provisions of chapter 213, Statutes of 1917, and effective amendments thereto, and as the Commission has passed upon this matter in past decisions, further discussion is not necessary.

At the hearing in this matter certain witnesses expressed dissatisfaction with the service and tariffs of rates of complainant, Coastside Transportation Company. Dissatisfaction with the service and rates of an authorized carrier has no bearing in this proceeding. The proper form and method of seeking relief, if necessity exists therefor, is by instituting an appropriate proceeding before this Commission against the authorized carrier.

After full consideration of the record herein, I am of the opinion and hereby find as a fact that defendant herein, Manuel Bello, has been

engaged in the transportation of property for compensation over a regular route and between fixed termini without having first secured a certificate of public convenience and necessity from the Railroad Commission authorizing such transportation as required by the provisions of section 5 of chapter 213, Statutes of 1917, and amendments thereto, and that the operations of defendant are unlawful and in violation of said chapter 213, Statutes of 1917, and amendments thereto.

I recommend the following form of order :

ORDER.

A public hearing having been held upon the foregoing entitled proceeding, evidence taken, briefs having been filed and the Commission being now fully advised, and basing its order on the finding of fact as appearing in the opinion which precedes this order ;

It is hereby ordered, that defendant, Manuel Bello, be and he is hereby directed to immediately and permanently discontinue said service until such time as he shall have secured a certificate of public convenience and necessity in compliance with the provisions of chapter 213, Statutes of 1917, and effective amendments thereto ; and

It is hereby further ordered, that the secretary of the Railroad Commission be and he hereby is directed to forward by registered mail a copy of the within decision to the district attorney of the city and county of San Francisco and to the district attorney of the county of San Mateo, California.

The effective date of this order is hereby fixed as twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of July, 1925.

DECISION No. 15168.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN INITIATIVE INTO THE METHODS AND PRACTICES OF OPERATION BY DAVID SCHMIDT AND F. K. EMICH, COPARTNERS.

Case No. 2091.

Decided July 10, 1925.

CERTIFICATE—AUTO CARRIER—UNLAWFUL OPERATION.—Defendants directed to discontinue unlawful operation. District attorney of Fresno County notified.

Robert M. Thomas, for Respondents.

Thas. A. Beck, for Geo. Harms and Harold Frasher, Intervenors.

BY THE COMMISSION.

ORDER REVOKING AND ANNULLING OPERATIVE RIGHTS.

In the above entitled proceeding, an order to show cause why the certificate of public convenience and necessity granted to David Schmidt and F. K. Emich under and by virtue of Decision No. 7973, in Application No. 5904, should not be revoked and annulled, the matter came on regularly for hearing before Examiner Satterwhite at Fresno at 10 a.m. on the thirteenth day of April, 1925.

Said order to show cause was issued and based upon certain evidence introduced in a hearing before this Commission on Application No. 9759, which evidence indicated that by certain practices and methods in the conduct of their operative rights under said Decision No. 7973, said David Schmidt and F. K. Emich were violating and ignoring the orders and provisions of Decision No. 11151 of this Commission in Application No. 8312.

The evidence in this proceeding shows that one James M. Parrish, under Decision No. 7222, in Application No. 4096, dated October 8, 1920, was granted a certificate of public convenience and necessity authorizing the operation of a freight truck line as a common carrier of property for compensation between Fresno, Reedley, Dinuba, Sultana, Orosi, Cutler and intermediate points. Under Decision No. 7973, in Application No. 5904, dated August 10, 1920, said operative right was transferred by a formal order of this Commission to a copartnership consisting of said David Schmidt and said F. K. Emich. Subsequent thereto, said Schmidt and said Emich filed a joint application with this Commission, being Application No. 8312, in which application it was proposed by the said copartners by transfer to divide said operative right, thereby creating two certificates in the place of one originally authorized by this Commission. Thereafter on October 23, 1922, the Commission issued its Decision No. 11151 on said Application No. 8312, wherein said application was denied, the Commission pointing out and holding in said decision that the operative right originally created was indivisible and that through transfer it could not be enlarged upon, nor more than one operative right created, where only one had theretofore existed. A certified copy of said decision was furnished to the said copartnership through their attorney of record and moreover said David Schmidt and F. K. Emich admitted at the hearing of this proceeding that they had full knowledge of the contents of said decision.

David Schmidt and F. K. Emich both testified as witnesses during the hearing of this proceeding and their testimony shows that, wholly ignoring and without regard for the orders and provisions of said Decision No. 11151, they and each of them did split up or separate their said operative rights between Fresno and Cutler and intermediate points as obtained under said Decision No. 7973. The record shows that

David Schmidt operated individually and independently that portion of the partnership route between Fresno and Dinuba and F. K. Emich operated individually and independently that portion of the partnership route between Fresno, Sultana, Orosi and Cutler. Each of them established separate headquarters and separate depots and kept separate and independent accounts of their individual operating expenses and operating revenues. Each of them conducted his operations under a different fictitious name and all shipments offered by either of them from his depot from Fresno to Dinuba were always refused by him and all shipments offered to Schmidt at his office destined from Fresno to Sultana, Orosi and Cutler was always refused by him. It appears that there was no accounting or division of profits between them after they separated their operations and all of the equipment used by each of them was separately purchased, owned and maintained in their divided service to the public.

The evidence further shows that F. K. Emich on or about April 10, 1933, sold his operative rights without any authority from this Commission, together with his truck equipment, to one Henry Smith and immediately went into the printing business and the said Henry Smith thereafter for a period of about a year and a half conducted the truck service between Fresno and Cutler under the fictitious name of Orosi Truck Line as sole owner until eight or ten days before the hearing on this proceeding, when it appears F. K. Emich bought back the equipment he had sold to Henry Smith and again resumed the truck operations between Fresno and Cutler and at the time of this hearing was conducting said operations individually and not in connection with David Schmidt.

After a careful consideration of all the evidence in this proceeding,

good cause appearing therefor,

it is hereby ordered, that the certificate of public convenience and necessity obtained by said David Schmidt and F. K. Emich, copartners, under said Decision No. 7973 in Application No. 5904, be and the same is hereby revoked and annulled.

it is hereby further ordered, that said David Schmidt be and he is hereby directed to cease and hereafter to desist from the transportation property by auto truck as a common carrier between Fresno and Dinuba and intermediate points unless and until he shall have secured from this Commission a certificate of public convenience and necessity authorizing such operation.

it is hereby further ordered, that said F. K. Emich be and he is hereby directed to cease and hereafter to desist from the transportation property by auto truck as a common carrier between Fresno and Cutler serving Sultana, Orosi and intermediate points, unless and until

he shall have secured from this Commission a certificate that the public convenience and necessity require such operation.

It is hereby further ordered, that said David Schmidt and F. K. Emich be and they and each of them are hereby directed to cease and hereafter to desist from the transportation of property by auto truck as a common carrier either as individuals or copartners between Fresno and Cutler serving Reedley, Dinuba, Sultana, Oroshi and intermediate points unless and until they and each of them shall have secured from this Commission a certificate that the public convenience and necessity require such operation.

It is hereby ordered, that the Secretary of this Commission be and he is hereby directed to serve, or cause to be served, by registered mail upon said David Schmidt and F. K. Emich and each of them a certified copy of this order; and

It is hereby further ordered, that the Secretary of this Commission be and he is hereby further ordered to forward to the district attorney of Fresno County a certified copy of this decision.

The effective date of this order shall be the twentieth day of July, 1925.

Dated at San Francisco, California, this tenth day of July, 1925.

DECISION No. 15169.

COASTSIDE TRANSPORTATION COMPANY, A CORPORATION,

vs.

CAESAR PELLEGRINI.

Case No. 2054.

Decided July 13, 1925.

CERTIFICATE—AUTO CARRIER—UNLAWFUL OPERATION.—Defendant directed to desist from illegal operation. District attorneys of the city and county of San Francisco and the county of San Mateo notified.

*Harry A. Encell and James A. Miller, by James A. Miller, for Complainant.
Sanborn and Roehl and De Lancey C. Smith, by De Lancey C. Smith, for Defendant.*

SEAVEY, *Commissioner.* .

OPINION.

Coastside Transportation Company, a corporation, operating and rendering an automobile passenger, freight and express service as authorized by the Railroad Commission between San Francisco and Pigeon Point and intermediate points by way of Salada and Moss Beach, and also between San Francisco and Pigeon Point by way of Colma, San Mateo and Half Moon Bay, makes complaint in which it alleges that Caesar Pellegrini has for some time past been engaged in the business of owning, controlling, operating or managing automobile

trucks in the business of transporting property, or as a common carrier, for compensation, over the public highways over a regular route between the city and county of San Francisco and the towns of Moss Beach and Half Moon Bay without first having obtained a certificate of public convenience and necessity from this Commission authorizing said operations. Complainant prays that the Railroad Commission, after due hearing and investigation, issue its order compelling defendant to cease and desist in his operations as a transportation company, or as a common carrier of property for compensation, and for such further order as may be proper.

Defendant duly filed his answer making general denial of the matters and allegations contained in the complaint.

A public hearing on this complaint was held at San Francisco, the matter was duly submitted following the receipt of briefs, and it is now ready for decision.

The record shows that a firm of importers and wholesale grocers at San Francisco notified defendant, Caesar Pellegrini, practically every day that goods were to be transported to Moss Beach and Half Moon Bay to one or all of their five or more customers at these places. These goods were sold f.o.b. San Francisco, the customers paying the firm direct or to a solicitor. This procedure had been followed and goods have been so transported by defendant since about 1920.

Testimony of three witnesses who received goods via defendant Pellegrini's trucks showed that the service had been rendered for from two and one-half to four years, or for the time they had been in business. Payments had been made to defendant from time to time but none of these witnesses definitely stated that any payment was compensation for transporting goods, though it was admitted that it might have been. One witness testified that he had never been charged for transportation of goods by defendant though he had been in business two and one-half years.

The testimony of defendant, Pellegrini, indicates that he has been engaged in the trucking business since previous to 1917 with the exception of an interval while he was in the United States Army. His equipment at present consists of four trucks. Vegetables, artichokes, sprouts and other products are hauled daily from about sixty ranches in the vicinity of Half Moon Bay to San Francisco markets, though deviations as to routes traveled are made as required. On the return trips from San Francisco, goods are transported to witnesses. It is maintained that no charge is made for this service.

The record is clear that defendant Pellegrini has daily transported farm produce from Half Moon Bay and vicinity to San Francisco and on practically all of the return trips has transported goods to certain stores and a hotel located at Moss Beach and Half Moon Bay. The

regularity of this return service was such that I am not convinced that it was continuously rendered free and from such record I am forced to the conclusion that compensation therefor was received by defendant Pellegrini.

The brief on behalf of defendant cites the lack of regular service or schedules and frequent refusal of business, as being grounds for exempting defendant from the provisions of the Auto Stage and Truck Transportation Act. If the views therein presented were sound, then anyone might engage in the transportation of property and by irregularity of operation, or selection of customers or shippers, be relieved from the provisions of that legislative act. Each method of operation would lead to discrimination and is at direct variance with sound regulation and with the provisions of the statutory enactment.

Dissatisfaction was expressed by certain witnesses as to the operations, tariffs, and other matters of complainant, Coastside Transportation Company. This can have no bearing in the present proceeding. Alleged failure of an authorized carrier in fulfilling its obligations in any of those matters may be brought to the Commission's attention by appropriate proceedings that are open and available to any complainant.

After careful and complete consideration of the record, including oral argument and briefs filed, I am of the opinion and hereby find as a fact that defendant, Caesar Pellegrini, has been engaged in the transportation of property for compensation over a regular route and between fixed termini and without having first secured a certificate of public convenience and necessity from the Railroad Commission authorizing such transportation as required by the provisions of section 5 of chapter 213, Statutes of 1917, and effective amendments thereto, and that the operations of defendant are unlawful and in violation of the provisions of said chapter 213, Statutes of 1917, and effective amendments thereto.

I recommend the following form of order:

ORDER.

A public hearing having been held upon the foregoing entitled proceeding, evidence having been received, briefs having been filed, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that defendant, Caesar Pellegrini, be and he is hereby directed to immediately and permanently discontinue service in the transportation of property, for compensation, over the public highways between the city and county of San Francisco and the towns of Moss Beach and Half Moon Bay, in San Mateo County, until such

time as he shall have secured a certificate of public convenience and necessity in compliance with the provisions of chapter 213, Statutes of 1917, and effective amendments thereto; and,

It is hereby further ordered, that the secretary of the Railroad Commission be and he hereby is directed to forward by registered mail a copy of the within decision to the district attorney of the city and county of San Francisco, and to the district attorney of the county of San Mateo, California.

The effective date of this order is hereby fixed as twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of July, 1925.

DECISION No. 15175.

CITY OF OAKLAND, A MUNICIPAL CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY OF KENTUCKY, A RAILROAD CORPORATION, SOUTHERN PACIFIC RAILROAD COMPANY OF CALIFORNIA, A RAILROAD CORPORATION, AND SOUTH PACIFIC COAST RAILWAY COMPANY OF CALIFORNIA, A RAILROAD CORPORATION.

Case No. 1487.

Decided July 13, 1925.

TRANSPORTATION—ELECTRIC RAILWAY—EQUIPMENT.—Use of cars not over nine feet, two inches in width over sills, instead of nine feet wide over sills, on the Twentieth street and Webster street route of Southern Pacific Company in the city of Oakland, authorized.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Defendants herein, having on June 19, 1925, made written request to the Commission for a modification of that portion of Decision No. 14618, dated March 4, 1925, in the above entitled matter, relating to the purchase and operation of certain specified equipment on the proposed route via Twentieth and Webster streets, and the city council of the city of Oakland having on June 18, 1925, in Resolution No. 32767, approved the modification of that portion of said order in Decision No. 14618, and of the operation over said proposed route of a type of car similar to those designated by defendants as Class 47-E1C-1, said equipment being 56 feet 10 inches in length over all and having a width of 9 feet 2 inches at the sills, and an average weight of motor coach and trailer of approximately 85,000 pounds; and it appearing to the

Commission that said request is reasonable and should be granted; therefore,

It is hereby ordered, that the portions of this Commission's order in Decision No. 14618, dated March 4, 1925, in the above entitled matter reading as follows:

It is hereby further ordered, that Southern Pacific Company purchase and place in operation before June 30, 1926, on the proposed route via Twentieth street and Webster street, seven cars of a type not over nine feet in width at the eaves, and weighing not more than 85,000 pounds complete with motors and trucks, and that the large type of car now operated shall be operated after that date only when exigencies of the service demand such operation, subject to further orders of the Commission in this regard.

It is hereby further ordered, that all regular and normal service on the proposed route via Twentieth and Webster streets shall be rendered by Southern Pacific Company with cars not over nine feet in width and weighing not more than 85,000 pounds complete with motors, on and after June 30, 1927, subject to further orders by the Commission in this regard.

are hereby revoked and annulled.

It is hereby further ordered, that Southern Pacific Company obtain and place in operation before June 30, 1926, on the proposed route via Twentieth street and Webster street not less than seven cars of a type not over nine feet two inches (9' 2") in width at the sills, 56 feet 10 inches in length over all and having in trains of one motor coach and one trailer an average weight not exceeding 85,000 pounds per car, and that the large type of car now operated shall be operated after that date only when exigencies of the service demand such operation, subject to further orders of the Commission in this regard.

It is hereby further ordered, that all regular and normal service on the proposed route via Twentieth and Webster streets shall be rendered by Southern Pacific Company with cars not over nine feet two inches (9' 2") in width over sills, 56 feet 10 inches in length over all and having in trains of one motor coach and one trailer an average weight not exceeding 85,000 pounds per car, on and after June 30, 1927, subject to further orders by the Commission in this regard.

In all other respects this Commission's Decision No. 14618, dated March 4, 1925, shall remain in full force and effect.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this thirteenth day of July, 1925.

DECISION No. 15177.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY, A CORPORATION, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION, ALAMEDA BELT LINE, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA (1) AUTHORIZING SAID ALAMEDA BELT LINE TO ISSUE AND SELL ITS CAPITAL STOCK CONSISTING OF FIVE THOUSAND SHARES OF THE PAR

VALUE OF ONE HUNDRED DOLLARS PER SHARE, (2) AUTHORIZING THE WESTERN PACIFIC RAILROAD COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY TO PURCHASE SAID CAPITAL STOCK.

Application No. 10888.

Decided July 14, 1925.

SECURITIES—STOCK—TO ISSUE.—Application granted.

M. Angellotti, for Western Pacific Railroad Company.

W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

Att Kent and *James S. Moore, Jr.*, for Alameda Belt Line.

J. Foulds and *F. L. Burckhalter*, for Southern Pacific Company.

Cutchen, Olney, Mannon and Greene, by *Allan P. Matthew*, for Encinal Terminals.

Frank Otis, Mayor, and *Clifton E. Hickok*, City Manager, for the City of Alameda.
Wm. Brobeck, Phleger and Harrison, by *G. A. Corbett*, for Key System Transit Company.

COTO, Commissioner.

OPINION.

Alameda Belt Line, a corporation organized under and by virtue of the laws of the State of California, asked permission to issue and sell par five hundred thousand dollars (\$500,000) par value of its common stock, divided into shares of one hundred dollars (\$100) each. Its application came on for hearing on the twenty-sixth day of March, 1925, and at subsequent dates to which the hearing was from time to time continued.

The Southern Pacific Company opposed the application on the following grounds:

First, that the Southern Pacific Company was already in the field opposed to be served by the Alameda Belt Line and that the granting of the application would lead to a duplication of the service of the Southern Pacific Company;

Second, that it was impossible for the applicant and the Western Pacific Railroad Company and The Atchison, Topeka and Santa Fe Railway Company to handle freight to and from the proposed terminal cheaply as it was possible for them to handle freight under the present arrangement with the Southern Pacific Company.

In order to arrive at a full understanding of the matter, the Southern Pacific Company was permitted to present its opposition in full and the Western Pacific Railroad Company and The Atchison, Topeka and Santa Fe Railway Company and the Encinal Terminals were also permitted to present their evidence to the Commission.

As these matters will be passed upon by the Interstate Commerce Commission in Finance Docket Nos. 4682 to 4686, inclusive, I see no reason to discuss them here.

It is of record that the Western Pacific Railroad Company hereinafter called the Western Pacific and The Atchison, Topeka and Santa

Fe Railway Company, hereinafter called the Santa Fe, have caused Alameda Belt Line to be incorporated and that the purpose of such corporation is to operate a belt line railroad within the boundaries of the city of Alameda and to serve the industrial area and waterfront of said city by the acquisition for the sum of \$30,000 from the city of Alameda of an existing belt line railroad and extend and operate the same to serve the industrial area and waterfront in said city. The route and termini of the proposed line of railroad to be acquired and the extensions thereof are as follows:

(A) Existing belt line:

Beginning at a point 188 feet, more or less, easterly of the intersection of the center line of Clement avenue and Broadway; thence by a single track along the center line of Clement avenue in a westerly direction and crossing all intervening streets to a point in Clement avenue at the westerly line of Grand street, a distance of 6364.5 feet.

(B) Proposed extension:

Beginning at a point in existing track on Clement avenue near Minturn street; thence by a single track on an S curve over and along private rights of way and intervening streets southerly and westerly to Buena Vista avenue at Hibbard street; thence westerly along the northerly side of Buena Vista avenue to a point thereon between Benton street and Bay street; thence by a single or double track curving northerly over private rights of way and intervening streets and continuing in a northerly direction to a proposed freight ferry slip on the estuary of San Antonio; and also running from a convenient point on said proposed line located about 1000 feet southerly from said proposed freight ferry slip, in a general westerly direction over private rights of way and crossing all intervening streets to the westerly side of Webster street at or near the so-called "segregation line," and continuing westerly over private rights of way and crossing all intervening streets to the shore line of San Francisco Bay, a distance of 14,600 feet, more or less.

As stated, the Alameda Belt Line has agreed to purchase from the city of Alameda the belt line railroad for \$30,000. The company estimates that it will have to expend \$389,018.35 to extend the line which it intends to purchase from the city in a general westerly direction from a connection with the existing track of the city's railroad in Clement avenue near Minturn street to the westerly line of Webster street, including the line to a proposed freight ferry slip to be located on the estuary of San Antonio; with interchange track on Clement avenue between Broadway and Park street, and also classification yard, track scales, water and oil facilities, and engine houses, and that an expenditure of \$75,527.23 is necessary in extending the line in a general westerly direction from the westerly line of Webster street to the shore line of San Francisco Bay. The total estimated expenditure of the Alameda Belt Line is reported at \$494,545.58. The testimony shows that this expenditure will be incurred as soon as the industrial development warrants the same.

The Alameda Belt Line asks permission to issue all of its stock forthwith, but requires the subscribers of such stock to make an initial payment equal in amount to 10 per cent only of the par value of the shares issued. The balance of the stock subscription is to be paid when called

for by the board of directors of the Alameda Belt Line. It is of record that the Western Pacific has subscribed for and agreed to purchase 2480 shares and the Santa Fe 2480 shares of the authorized capital stock of Alameda Belt Line. Forty shares of the company's authorized stock have been subscribed for by the incorporators of the company.

It has not been the policy of the Commission to authorize the issue of assessable stock. The Commission believes that neither stock nor stock certificates should be issued until fully paid. As advances are made by the Santa Fe and Western Pacific to Alameda Belt Line, such company may issue its stock at par, equal in par value to the money advanced by the two companies, or other companies that may join in the enterprise.

The order herein will permit the Western Pacific and the Santa Fe to purchase and hold the stock of the Alameda Belt Line.

I herewith submit the following form of order:

ORDER.

Alameda Belt Line having applied to the Railroad Commission for permission to issue \$500,000 of stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required by the company and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that the Alameda Belt Line be and it is hereby authorized to issue at not less than par on or before December 31, 1926, \$500,000 of its common capital stock and use the proceeds obtained from the sale of such stock to acquire from the city of Alameda the railroad properties referred to in Exhibit "B" filed in this proceeding, and to construct the railroad properties described in Exhibit "D" filed in this proceeding; provided, that no stock or stock certificates may be issued by the Alameda Belt Line until it has received full payment for such stock or stock certificates.

It is hereby further ordered, that the Western Pacific Railroad Company and The Atchison, Topeka and Santa Fe Railway Company be and they are hereby authorized to purchase and hold the stock of Alameda Belt Line.

The authority herein granted to issue stock is subject to the following conditions:

1. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General

Order No. 24, which order, in so far as applicable, is made a part of the order.

2. Authority herein granted to issue stock will become effective within twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of July 1925.

DECISION No. 15187. •

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN COMPRESS AND WAREHOUSE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF TWO HUNDRED FIFTY (250) ADDITIONAL SHARES OF THE CAPITAL STOCK AT PAR, TO WIT ONE HUNDRED DOLLARS.

Application No. 11179.

Decided July 16, 1925.

SECURITIES—STOCK—To ISSUE.—Application granted.

Wiley and Harvey, by *T. N. Harvey*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing held before Examiner Fankhauser, the Railroad Commission is asked to make an order authorizing San Joaquin Compress and Warehouse Company to execute a lease contract for the purchase of compress equipment and to issue \$25,000 of its common stock in addition to the \$75,000 of stock heretofore authorized to be issued by Decision No. 14002, dated August 30, 1924, in Application No. 10364.

In Application No. 10364, filed with the Commission on August 8, 1924, the company reported that it had an option to purchase, for \$10,000, twenty-two acres of land in Bakersfield upon which it intended to erect a warehouse and cotton compress, and it asked permission to issue and sell \$75,000 of stock at par, to finance in part the cost thereof. The company's request was granted by Decision No. 14002.

The present application shows that the company has acquired the land and has proceeded with the erection of the compress plant and warehouse and the grading and construction of spur tracks thereto, it being estimated that the work will be completed in time to take care of this year's cotton crop. It is reported, however, that the \$75,000 obtained through the issue and sale of the stock authorized by Decision No. 14002 is inadequate to meet the expenditures necessary for its construction work and for that reason it has been decided to issue an additional \$25,000 of stock, applicant reporting that it has found it

cessary to provide \$10,000 for the land, \$75,000 for the compress and rehouse buildings and equipment and \$15,000 for working capital. Applicant reports that arrangements have been made for the sale the \$25,000 of stock applied for herein at par, without deduction for brokerage or commission, payment to be made upon the call, or calls, the board of directors as money is needed, to proceed with the construction work. While we have no objection to this method of payment, it is to be understood that no stock may be issued until fully paid for. A contract and agreement have been made with the Webb Press Company, Ltd., of Minden, Louisiana, for the purchase by applicant of \$42,000 of compress equipment consisting of a standard eighty-inch 30-ton high-density press of the latest design, such as are said to be used throughout the cotton states. Under the agreement \$17,000 of the purchase price is to be paid in cash upon presentation of the bills lading showing that shipment has been made, and \$25,000 is to be secured by six per cent notes maturing as follows:

January 1, 1926-----	\$2,500 00	May 1, 1926-----	\$2,500 00
January 1, 1927-----	\$2,500 00	May 1, 1927-----	\$2,500 00
January 1, 1928-----	\$2,500 00	May 1, 1928-----	\$2,500 00
January 1, 1929-----	\$2,500 00	May 1, 1929-----	\$2,500 00
January 1, 1930-----	\$2,500 00	May 1, 1930-----	\$2,500 00

The contract and agreement indicate that the notes are to be a first lien against the entire compress plant, buildings and ground and are to be secured by a first mortgage deed of trust on such properties, said deed and security to be executed by applicant upon the arrival of the compress.

We believe that the issue of the notes and the execution of the deed of trust securing them should be authorized by the Commission. A copy of the deed of trust has not been filed and the Commission therefore can not at this time authorize its execution. The order herein will permit the issue of stock and notes in the amount applied for. Hereafter, upon the filing by applicant of a copy of its proposed deed of trust in satisfactory form, the Commission will make its supplemental order authorizing its execution.

ORDER.

San Joaquin Compress and Warehouse Company having applied to the Railroad Commission for permission to issue stock and notes, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for such issue and sale is reasonably required for the purposes specified herein and that the expenditures for such purposes are not, in whole or part, reasonably chargeable to operating expenses or to income; *It is hereby ordered*, that San Joaquin Compress and Warehouse Company be and it hereby is authorized to issue and sell, at not less

than par for cash, \$25,000 of its common capital stock, and to use the proceeds to finance in part the cost of the construction work referred to in the foregoing opinion.

It is hereby further ordered, that San Joaquin Compress and Warehouse Company be and it hereby is authorized to execute its 6 per cent notes in the aggregate face amount of \$25,000, payable as indicated in the foregoing opinion, for the purpose of financing in part the cost of the compress equipment, such notes to be issued pursuant to the terms of the contract and agreement, dated April 14, 1925, between applicant and Webb Press Company, Ltd., of Minden, Louisiana.

The authority herein granted is subject to the following conditions:

(1) Under the authority herein granted no stock may be issued until fully paid for.

(2) Upon the filing by applicant of a copy of its proposed deed of trust in satisfactory form the Commission will, by supplemental order, authorize its execution to secure the payment of the \$25,000 of notes herein authorized to be issued.

(3) San Joaquin Compress and Warehouse Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted to issue stock will become effective upon the date hereof, but the authority granted to issue notes will become effective only when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25. Under the authority granted, however, no stock or notes may be issued subsequent to June 30, 1926, unless hereinafter provided.

Dated at San Francisco, California, this sixteenth day of July, 1926.

DECISION No. 15192.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, AND HOME TELEPHONE AND TELEGRAPH COMPANY OF PASADENA, A CORPORATION, THE FORMER ASKING PERMISSION TO INSTALL TELEPHONE PLANT AND TO PUBLISH, FILE AND PUT INTO EFFECT RATES FOR EXCHANGE, INTEREXCHANGE AND TELEGRAPH SERVICE AT LA CANADA, LOS ANGELES COUNTY, CALIFORNIA, THE LATTER REQUESTING PERMISSION TO RETIRE FROM CERTAIN TERRITORY.

Application No. 11027.

Decided July 17, 1925.

CERTIFICATE—TELEPHONE UTILITY—EXCHANGE ESTABLISHED—RATES.—Certificate granted to The Pacific Telephone and Telegraph Company to establish

exchange to serve Montrose, Verdugo City, La Crescenta and adjacent territory. Discontinuance of service in said territory from the Glendale Exchange of applicant authorized. Rates established for local exchange and toll service.

vs T. Shaw, for Applicants.

Connor, for Pasadena Merchants' Association, Protestant.

Sullivan, for Verdugo Hills Merchants' Association, Proponent.

H. Hays, Jr., for La Canada Valley Chamber of Commerce, Protestant.

Fowler, for Verdugo City Association of Commerce, Proponent.

MacKay, for La Crescenta Chamber of Commerce, Proponent.

Schenk, for Flintridge Company, Protestant.

E. A. Kantel, for La Canada Women's Club, Protestant.

DIGGE, *Commissioner*.

OPINION.

This is a joint application of The Pacific Telephone and Telegraph Company and the Home Telephone and Telegraph Company of Pasadena in which the former requests the Railroad Commission to grant authority to establish a separate telephone exchange in territory now being served partially by it from its Glendale exchange and by the Pasadena Company from its Pasadena exchange, and the latter for authority to discontinue serving that portion of the territory now served by it and to be included in the proposed exchange area.

A public hearing was held in this matter in Los Angeles on May 1, 1917, at which time and place the matter was submitted.

The territory which the Pacific Company proposes to include in the exchange area comprises the communities of Montrose, Verdugo City, La Crescenta, La Canada and Flintridge. The population of the combined communities totals approximately 5000. There are, at present time, some 467 subscribers' stations in the territory herein being considered, 265 of which are connected to the Glendale exchange and 202 to the Pasadena exchange. Of these stations, in the Glendale exchange, 256 are receiving service from suburban, or ten-party lines, and of those in the Pasadena exchange, 44 are connected to suburban lines.

The communities of Montrose, Verdugo City and La Crescenta are strongly in favor of the separate exchange as applied for by applicants. The communities of La Canada and Flintridge, however, do not desire to be included in this new exchange area for the reason, as representatives from these communities stated, that the interests of these communities are entirely with Pasadena and further that these communities are separated naturally from Montrose, Verdugo City and La Crescenta.

Applicants submitted certain meager information to show that by including the entire communities in question from one separate exchange, there would result economies in construction and operation. This is one of the reasons why applicants urge this separate exchange.

The southern boundary of the new exchange as proposed by the Pacific Company is located approximately midway between Montrose

and the intersection of the La Canada and Verdugo Canyon boulevards. This territory between the southern boundary of the proposed Montrose exchange and north of the intersection of these two roads, which territory is in the Glendale exchange area, is separated naturally from Glendale almost to the same extent as La Canada is separated from Montrose. Here is a peculiar situation in which the applicants in this proceeding propose to include the community of La Canada within the Montrose exchange area and at the same time do not propose to include within this new area the territory between Montrose and Glendale.

The conditions of these two areas are very similar and if the economies which the company believes will result by including La Canada and Flintridge in the new exchange area, it appears that similar economies might also result by including in the new exchange area this territory immediately south of Montrose. However, the converse of this may be true; that is, if the territory south of Montrose should not be included in the Montrose exchange, then it appears that there may be good reasons why the communities of La Canada and Flintridge should be excluded from the proposed Montrose exchange.

One of the obligations of a public utility to its subscribers is to furnish a satisfactory service in the most economical manner. If the establishment of a separate exchange will furnish a satisfactory service and will result in economies of construction and operation which conditions will reflect lower rates, it is then the obligation of the utility to request the necessary authority to proceed in that manner.

It is also essential that a utility make every reasonable attempt to explain to its subscribers and the public its operations and practices and the reasons and methods followed by it in the charging and collection of its various rates. That the subscribers have this fundamental knowledge is a very important factor in rendering satisfactory service and in establishing proper public relations.

The evidence in this proceeding indicates that the communities of La Canada and Flintridge are in a body opposed to the establishment of the exchange as proposed by applicants. In addition to other objections, it was very clearly shown that neither of these communities has any community interest with Montrose, Verdugo City or La Crescenta. It appears to the Commission that should it be necessary, for reasons of construction or operation or any other reason to separate the communities of La Canada and Flintridge from the Pasadena exchange area, these two communities should be made a separate exchange by themselves and not be included within the exchange area comprising the communities of Montrose, Verdugo City and La Crescenta. The present development of this area, together with its topography and relative location of the other communities, indicate this to be a proper procedure.

applicants before requesting authority from this Commission to establish an exchange area to include the communities of La Canada Flintridge, should first make every reasonable attempt to place fully before the people of those communities the advantages and merits of such an exchange and why it is necessary as communities increase in population and development to divide, from time to time, existing exchange areas into smaller areas. The order following proposes for the establishment of a separate exchange area to include the communities of Montrose, Verdugo City and La Crescenta with an entirely exchange boundary coinciding with the present boundary of Glendale and Pasadena exchange areas.

applicants have submitted a schedule of rates to apply within the proposed exchange somewhat higher than the rates now in effect in exchanges of like size. It does not appear that the rates of this exchange should be in excess of those applying in exchanges of similar size and conditions. The local rates herein authorized, together with the rates which applicant proposed, are set forth in the table following:

**ALL RATES FOR GENERAL BUSINESS AND RESIDENCE SERVICE.
Montrose, Verdugo City and La Crescenta.**

	Local exchange rates proposed by applicants		Local exchange rates herein authorized	
	Wall set	Desk set	Wall set	Desk set
Business service—				
Individual line -----	\$4 00	\$4 25	\$3 00	\$3 25
Two-party line -----	3 50	3 75	2 25	2 50
Extension station -----	1 00	1 00	1 00	1 25
Residence service—				
Individual line -----	2 75	3 00	2 50	2 75
Two-party line -----	2 25	2 50	2 00	2 25
Four-party line -----	2 00	2 25	1 75	2 00
Extension station with bell -----	50	75	50	75
without bell -----	50	75	50	75

Above rates are on a monthly basis.

applicants also propose a five-cent rate for calls from the new exchange to Glendale and Pasadena. In accordance with the usual method of establishing toll rates, the charge for completed calls between Montrose, Verdugo City and La Crescenta and Glendale should be five cents, and ten cents to Pasadena. The order following will so provide:

ORDER.

The Pacific Telephone and Telegraph Company and the Home Telephone and Telegraph Company of Pasadena having requested the Railroad Commission for an order authorizing the Home Telephone and Telegraph Company of Pasadena to withdraw its service from certain territory referred to as La Canada and Flintridge, and granting The

Pacific Telephone and Telegraph Company a certificate that present public convenience and necessity require said utility to begin construction of a plant or system for the purpose of establishing a telephone exchange at La Canada to serve the communities of Montrose, Verdugo City, La Crescenta, La Canada and Flintridge, and to publish, file and place in effect certain rates and for such other and further relief as may be meet in the premises, a public hearing having been held, the matter being submitted and now being ready for decision;

The Railroad Commission of the State of California hereby finds as a fact that present public convenience and necessity require The Pacific Telephone and Telegraph Company to establish a telephone exchange to serve the communities of Montrose, Verdugo City, La Crescenta and adjacent territory as shown in Exhibit "B" attached hereto, and that The Pacific Telephone and Telegraph Company should place in effect the rates for telephone and telegraph service set forth in Exhibit "A" attached hereto.

Basing its order on the foregoing findings of fact and upon the findings of fact as set forth in the opinion preceding this order:

The Railroad Commission of the State of California hereby decrees that present public convenience and necessity require The Pacific Telephone and Telegraph Company to establish, construct and operate a telephone exchange to serve the communities of Montrose, Verdugo City, La Crescenta and adjacent territory shown in Exhibit "B" attached hereto; and

It is hereby ordered, that The Pacific Telephone and Telegraph Company shall

(1) Establish a telephone exchange to serve the communities of Montrose, Verdugo City, La Crescenta and adjacent territory shown in Exhibit "B" attached hereto.

(2) Commence construction work in connection with the establishment of said telephone exchange on or before August 15, 1925.

(3) File information with the Railroad Commission showing that the order in section (2) above has been complied with, not later than five days after the beginning of said construction work.

(4) Furnish exchange and toll telephone and telegraph service at said exchange on and after January 1, 1926, under the rates set forth in Exhibit "A" attached hereto.

(5) Establish a primary rate area and exchange area for the telephone exchange as set forth in Exhibit "B" attached hereto.

(6) File with the Railroad Commission, on or before December 31, 1925, the rates set forth under Exhibit "A" attached hereto.

(7) File with the Railroad Commission, on or before December 31, 1925, maps showing the primary rate area and exchange area of the telephone exchange set forth in Exhibit "B" attached hereto.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Discontinue furnishing Glendale service within the said new age area on and after January 1, 1926.

The foregoing opinion and order is hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Witness my hand at San Francisco, California, this seventeenth day of July,

EXHIBIT "A."

RATES FOR EXCHANGE AND TOLL TELEPHONE AND TELEGRAPH SERVICE—MONTROSE, VERDUGO CITY AND LA CRESCENTA.

Exchange Service Schedules.

General Service—Montrose, Verdugo City and La Crescenta.

Applicable to business individual line and two-party line flat rate service, and to one individual line and party line flat rate service furnished within the Primary Area of the Montrose Exchange.

	Rate per month	
	Wall set	Desk set
Business flat rate service.		
Individual line station -----	\$3 00	\$3 25
Two-party line station -----	2 25	2 50
Extension station -----	1 00	1 25
Residence flat rate service.		
Individual line station -----	2 50	2 75
Two-party line station -----	2 00	2 25
Four-party line station -----	1 75	2 00
Extension station without bell -----	50	75
Extension station with bell -----	65	1 00

OTHER EXCHANGE SERVICE.

For rates and charges as set forth in Sheets C. R. C. Nos. 9804-T, 9805-T, 9807-T, 9811-T, 9812-T, 9813-T, 9814-T, 9815-T, 9818-T, 9819-T, 9820-T, 9823-T, 9824-T, 9825-T, 9827-T, 13649-T, 9833-T, 9834-T, 13081-T, of the Rate Schedules of The Pacific Telephone and Telegraph Company, as with the Railroad Commission.

RATES FOR TOLL TELEPHONE SERVICE.

For rates for toll telephone service between Montrose, Verdugo City and La Crescenta and other toll point are the rates determined in accordance with the terms and conditions of Order No. 2495, dated December 13, 1918, and Order No. 2797, dated July 17, 1919, amendatory thereto, of the Postmaster General of the United States with the exceptions noted below; provided, however, that as to any toll points connecting line over which rates established by the Postmaster General do not the rate shall be the sum of the rate between Montrose, Verdugo City and La Crescenta, and the connecting point on such line to which such rates established by the Postmaster General do apply, and the rate in effect between this connecting point and the toll point.

Exceptions referred to above are as follows:

Between Montrose, Verdugo City and La Crescenta and any one of the toll points at Burbank, Glendale, Pasadena and Los Angeles, station-to-station service will be furnished.

Between Montrose, Verdugo City and La Crescenta and Glendale, the initial station-to-station rate will be five cents (\$.05).

Initial and overtime periods and overtime rates will be, in all cases, as set forth in the orders of the Postmaster General, referred to above.

RATES FOR TELEGRAPH SERVICE.

The rates for telegraph service between Montrose, Verdugo City and La Crescenta and other telegraph points, shall be those rates determined in accordance with the standard methods set forth in the telegraph rate schedules of The Pacific Telephone and Telegraph Company on file with the Railroad Commission.

DECISION No. 15193.

IN THE MATTER OF THE APPLICATION OF ROSEVILLE WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE CREATION OF BONDED INDEBTEDNESS IN THE SUM OF TWO HUNDRED THOUSAND DOLLARS AND THE ISSUANCE AND SALE OF BONDS IN THE SUM OF ONE HUNDRED SEVENTY-ONE THOUSAND DOLLARS.

Application No. 11381.

Decided July 18, 1925.

SECURITIES—NOTES—TO ISSUE.—Roseville Water Company authorized to issue three promissory notes for \$5,000 each, payable in one, two and three years after date, with interest at not exceeding eight per cent per annum.

James D. Meredith, for Applicant.

DECOTO, Commissioner.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Roseville Water Company, a corporation, to create bonded indebtedness in the sum of \$200,000 upon all its plants and properties, and to issue and sell \$171,000 of bonds to pay indebtedness and to finance the cost of extensions, additions and betterments, and issue \$15,000 of 8 per cent promissory notes.

A public hearing on the application, in so far as it involves the issue of notes, was held on July 16, 1925, and the order in this decision accordingly will be limited to that portion of the application. A further hearing will be held and a supplemental opinion and order hereafter made on the requests of the company to create a bonded indebtedness and to issue and sell bonds.

It appears that applicant was organized during March, 1912, primarily for the purpose of supplying water for domestic use in and about the city of Roseville, Placer County. It is reported that due to the growth of population since the organization of the company, the capacity of the system has become too small to meet the increasing demands for service and that it is necessary for the company to overhaul and enlarge its present pipe lines and to install new pipe lines and to develop additional water to serve new districts being opened. For these purposes it is estimated that applicant will be called upon to expend approximately \$100,000 as follows:

For enlargements and replacements	\$35,000
For installation and enlargement of main pipe line leading from reservoir of applicant to city of Roseville.....	30,000
For payments of accounts now owing for pipe purchased and installed	10,000
For the purchase of three wells, pumps, motors, land on which same are situated, rights of way and all matters appertaining thereto..	25,000
Total.....	\$100,000

The company is asking permission to issue three notes for \$5,000 each, maturing in one, two and three years after date, to take care of a portion of these expenditures, reported most urgent, consisting of approximately 9800 feet of four-inch cast-iron pipe. It is its intention hereafter upon receiving permission from the Commission to discharge the notes with proceeds to be received through the issue and sale of its bonds.

I herewith submit the following form of order :

ORDER.

Roseville Water Company having applied to the Railroad Commission for permission to create a bonded indebtedness and to issue bonds and notes, a public hearing having been held on the application in so far as it involves the issue of notes, and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such notes, is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Roseville Water Company be and it hereby authorized to issue three promissory notes for \$5,000 each, payable one, two and three years after date, with interest at not exceeding per cent per annum, for the purpose of financing in part the cost of the extensions, additions and betterments to which reference is made in the foregoing opinion.

The authority herein granted is subject to the following conditions :

1. Applicant shall keep such record of the issue and delivery of the notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted shall become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of July, 1925.

DECISION No. 15197.

THE MATTER OF THE APPLICATION OF SAN FRANCISCO-RICHMOND FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK OF THE PAR VALUE OF

EIGHT HUNDRED THOUSAND DOLLARS—(PETITION OF APPLICANT FOR AN ORDER DIRECTING IT TO WITHDRAW FUNDS FROM THE BANK AND TO PAY ALL ITS OUTSTANDING OBLIGATIONS AND TO DISTRIBUTE CERTAIN MONEYS TO ITS STOCKHOLDERS.)

Application No. 5097 (Supplemental).

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-RICHMOND FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK AT PAR VALUE OF EIGHT HUNDRED THOUSAND DOLLARS—(PETITION OF O. R. LUDWIG, A STOCKHOLDER OF APPLICANT, SAN FRANCISCO-RICHMOND FERRY COMPANY FOR DISTRIBUTION OF TRUST FUNDS.

Application No. 5097 (Supplemental).

Decided July 18, 1925.

SECURITIES—STOCK—TO ISSUE—DISTRIBUTION OF FUNDS.—Holding that all moneys received from the sale of stock, now deposited with the Wells Fargo Bank and Union Trust Company, at San Francisco, or elsewhere, are held in trust by the company for its stockholders, the Commission directed the company to file with the Commission on or before August 20, 1925, a statement under oath, setting forth the names of all stockholders of the company, their addresses, the number of shares of stock owned by each, and the total amount of money each of the stockholders has paid to the company.

Denying the application for a distribution of funds, the Commission announced that it will direct the payment to stockholders of such sums as it may determine to be due them, following the filing of the required statement.

Elmer E. Robinson, for San Francisco-Richmond Ferry Company.

Marcell McNutt and Sanborn and Rochl and De Lancey C. Smith, for O. R. Ludwig.

DECOTO, *Commissioner*.

OPINION.

The Ellis Landing and Dock Company, a California corporation, was granted a ferry franchise by the board of supervisors of Contra Costa County for the maintenance and operation of a ferry between San Francisco and Richmond. Thereafter M. Emanuel, the president of the Ellis Landing and Dock Company and from his own testimony an owner of 48 per cent of the stock of that company, organized the San Francisco-Richmond Ferry Company, a California corporation, and the articles of incorporation thereof were filed with the county clerk of the city and county of San Francisco on the fourteenth day of October, 1919, and with the Secretary of State of California on the fifteenth day of October, 1919. The articles of incorporation were signed by M. Emanuel, E. S. Lubfin and M. A. Gordon. For convenience the Ellis Landing and Dock Company will be hereinafter referred to as the dock company and the San Francisco-Richmond Ferry Company as the ferry company.

On November 3, 1919, the ferry company filed with the Railroad Commission of the State of California its application (No. 5097), requesting that it be permitted to issue three shares of stock for organization purposes and stating:

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1. That the dock company had assigned and transferred to the ferry company its franchise.

2. That the dock company and the ferry company had entered into agreement whereby the ferry company, among other things, was to give over certain property of the dock company in Richmond and to deliver nine hundred (900) shares of the stock of the ferry company to the dock company in payment therefor.

3. That the ferry company applied for a permit to deliver this nine hundred (900) shares of its capital stock fully paid up as payment for the property above mentioned.

4. That the ferry company asked a permit to sell eight thousand (8000) shares of its capital stock at par to net to the ferry company eighty-five (85) per cent of the par value thereof and to pay fifteen (15) per cent thereof "for the expenses and cost of the sale of said stock and its distribution; it being understood that out of said fifteen (15) per cent there shall also be paid the legal costs of incorporation of the company, and such other expenses as are incident to a thorough organization thereof."

5. That the ferry company was "perfectly willing to have and agrees that this Commission in connection with the issuance of any permit for the sale of its capital stock or other commercial paper and in connection with the deposit and safekeeping and disbursement of all moneys realized from the sale of said capital stock, *impose and provide such reasonable conditions and restrictions as to the Commission seems proper*, to the end that all moneys, notes, and other commercial paper realized from the sale of its capital stock shall be devoted to the legitimate purposes of the company * * *. And in this behalf your petitioner suggests that such moneys, notes and commercial paper be deposited with the Wells Fargo Nevada National Bank of San Francisco, the same to be withdrawn by the duly authorized officers of the company *only upon the written permission of this commission* * * *." His application, after due notice, was heard on November 15, 1919, and at subsequent dates at San Francisco, and on September 24, 1920, the Commission made and filed its opinion and order (Decision No. 4), which provided among other things:

That the ferry company be authorized to issue \$800,000 par value of its capital stock to be sold for cash at not less than 85 per cent of its value.

That no stock be issued in payment for terminal lands or property except as authorized by a supplemental order of the Commission.

That all proceeds obtained from the sale of the stock should be deposited in a bank or banks and expended only for such purposes as the Railroad Commission may thereafter authorize.

4. That the ferry company should file with the Commission the names, post-office addresses, amount of stock subscribed and payment thereon of each stock subscriber.

5. That prior to accepting a stock subscription, the ferry company should furnish each prospective stock subscriber with a copy of the Commission's decision.

6. That the stock was to be sold on or before December 30, 1920.

This order was later modified by a first supplemental order of December 20, 1920, modifying that portion of the order requiring that a copy of the decision be furnished each prospective subscriber.

The ferry company commenced the sale of stock and many extensions of time for the sale of stock were made by the Commission, the last one extending the time for the sale of stock to September 10, 1923. During this period the ferry company sold and issued 655 shares of stock and there was paid to the ferry company therefor \$65,500.

On February 19, 1921, a second supplemental order was made by the Commission authorizing the issue and delivery of five shares of the said 8000 shares to Fred H. Tibbetts and the use of \$545.24 of the proceeds of the sale of stock in payment of a bill of \$545.24 filed with the Commission.

On June 14, 1922, the ferry company, through its president, M. Emanuel, filed its application requesting a modification of the original order of the Commission so that it might issue \$350,000 par value of capital stock instead of \$800,000 as provided in the order and for permission to execute and deliver a first mortgage for the purpose of realizing funds to pay for two ferry boats and the Commission by its first supplemental opinion dismissed the application without prejudice.

On August 15, 1922, by its fourth supplemental order (Decision No. 10864), the Commission granted the ferry company permission to withdraw \$131 from the Wells Fargo Nevada National Bank to pay the federal capital stock tax, \$23, state corporation tax, \$8, and state license tax, \$100.

On January 9, 1923, by its fifth supplemental order the Commission granted permission to the ferry company to withdraw \$2,100 from funds in Wells Fargo Nevada National Bank of San Francisco to refund to Dora Maybelle Douglass \$2,000 of \$2,400 paid on her stock subscription and \$100 for the purpose of paying the corporation license tax.

By letters dated September 22, 1923, January 29, 1924, and April 24, 1924, the ferry company requested the permission of the Commission to pay certain bills and stockholders. These applications were set for hearing but upon the request of the ferry company were dismissed without prejudice by the Commission on May 16, 1924.

On August 12, 1924, by its sixth supplemental order the Commission granted permission to the ferry company to withdraw from the Wells Fargo Bank and Union Trust Company \$12, to pay the state corporate tax.

On October 22, 1924, O. R. Ludwig filed his application stating among other things that the ferry company was not able to sell enough stock to carry out its project and had not received from the Commission a certificate of public convenience and necessity authorizing it to operate the ferry, and had sold stock to the amount of \$65,500, of which sum 85 per cent had been deposited in the Wells Fargo Bank and Union Trust Company and that said sum was deposited in an account entitled "Special Account of San Francisco-Richmond Ferry Company," payable only on order of the Railroad Commission and setting forth the wishes of the stockholders and that he had purchased 50 shares of the capital stock of the ferry company and had paid \$5,000 therefor and requested the order of the Commission directing the ferry company to return the money so deposited to the stockholders.

On November 22, 1924, the ferry company filed its answer to the application of O. R. Ludwig admitting among other things:

1. That it had not been able to sell enough stock to carry out its project.

2. That the time within which it was authorized to sell stock by the Commission expired on September 10, 1923.

3. That it had issued and sold 655 shares of stock for \$65,500 and had deposited 85 per cent thereof in the Wells Fargo Bank and Union Trust Company and that the "said money was deposited in said bank as directed by the Railroad Commission" * * *.

4. That O. R. Ludwig had purchased 50 shares of the capital stock of the ferry company and had paid \$5,000 therefor, 85 per cent of which had been deposited in the Wells Fargo Bank and Union Trust Company and alleging that O. R. Ludwig was indebted to the ferry company in the sum of \$351.

5. That all of the stockholders enumerated in Ludwig's application were stockholders of the ferry company except J. Jordan, C. Walter Clay and Mrs. Nellie R. Stewart as administratrix of the estate of Clyde W. Miller, deceased, and that each of said stockholders paid \$100 per share for said stock, 85 per cent of which is now deposited in the Wells Fargo Bank and Union Trust Company.

6. That O. R. Ludwig had demanded the return of his money so paid for said stock.

There is a separate defense in which the ferry company maintains that the Commission has no power, authority or jurisdiction to hear or determine the matters or things set forth in the petition of O. R. Ludwig to direct the ferry company to pay to Ludwig or any stockholder the

amount of their stock subscriptions or to direct a distribution of assets, property or profits of the ferry company.

On February 4, 1925, the ferry company filed its supplemental application or petition setting out the sale of \$65,500 in stock, enumerating certain alleged debts of the ferry company and requesting that if these alleged debts had been ordered paid by the Commission the monies remaining be prorated among the stockholders.

The debts sought to be ordered paid are as follows:

The Ellis Landing and Dock Company as per stockholders resolution . . .	\$10,327	
For interest -----		722
March 6, 1924, notary verification of report to State Board of Equalization -----	\$0	25
March 6, 1924, documentary stamps for stock certificates as required by law -----		1 25
March 20, 1924, notary verification of report May 22, 1924, Nos. 38-40, inclusive, to State Railroad Commission -----		1 50
September 2, 1924, notary verification of capital stock tax report -----		50
November 17, 1924, notary verification of answer to complaint of Ludwig in intervention -----		25
Attorney Elmer E. Robinson for services rendered during 1924 -----		1,185
Attorney E. De Los Magee -----		225
M. Emanuel for cash advanced -----		80
M. Emanuel, advances to sales manager -----		653
Certain services of the law firm of Golden and Rothchild -----		(unestimated)

This supplemental application or petition, together with the supplemental application or petition of O. R. Ludwig and the answer of the ferry company thereto were consolidated and heard together on March 17, 1925.

Prior to this hearing and on February 26, 1925, the Commission issued its seventh supplemental order granted permission to the ferry company to withdraw \$110 from the bank to pay the state corporation tax.

At the hearing, many witnesses were called by each of the parties and from the evidence adduced I find the following facts:

1. That M. Emanuel was at the time of the formation of the ferry company the president of the dock company and the owner of 48 per cent of its stock and ever since has been its president.

2. That from the formation of the ferry company M. Emanuel was the president of the company and now is the president.

3. That M. Emanuel was at all times thoroughly and intimately familiar with all the business and transactions of both the dock company and the ferry company.

4. That M. Emanuel had knowledge of all the orders of the Commission and was familiar with all the conditions thereof.

5. That all alleged debts of the ferry company were directed to and incurred by M. Emanuel and all money alleged to have been advanced by the dock company to the ferry company was advanced at his direction.

That the places of business of the dock company and the ferry company were in the same room and the same stenographer and book-keeper were employed by each company.

That M. Emanuel as president of the dock company hired the attorneys to sue the ferry company for money alleged to have been advanced by the dock company to the ferry company and then as president of the ferry company hired other attorneys to defend this

This action is now pending in the superior court in the city and county of San Francisco and is numbered 144,661.

That the understanding and attitude of all the promoters of the ferry company are aptly expressed in the words of Judge I. M. Golden at the hearing on June 22, 1922.

For instance, I have not received one cent of fees, which is a very unusual thing for a lawyer to follow, very unusual, and, I suppose, very unethical and either unprofessional, but I have not received a five-cent piece for any of the services I have rendered from the time that this entire proceeding started, because I took the position that I would take my chances with everyone else, and what I am anxious to get is stock, and if the stock is not worth anything, I am out of luck for the time I have put into it, and yet we all of us feel that this is an absolutely fair proposition, and it is about the best proposition that I have ever seen submitted to the Railroad Commission, as far as I have any knowledge, where nobody is getting anything out of it except that the thing goes through.

That the minutes of the ferry company show that the expenditures of the ferry company now seeks to have authorized were not contemplated at the time being within the order of the Commission.

1. That the money alleged to have been advanced to the ferry company was advanced by the dock company with full knowledge of the financial condition of the ferry company and the order of the Commission impounding the funds of the ferry company. No application was made prior to January 29, 1924, to the Commission for permission to withdraw the money from the bank to pay these alleged debts.

2. That the opinion of the Commission authorizing the sale of stock contained the following language:

In the event that the company is not able to sell sufficient stock to carry out the project, the moneys collected should be returned to the stock subscribers or investors, less such an amount as the Commission may deem to be proper to cover organization expenses and expenses incident to the sale of stock. If the promoters have confidence in this enterprise, they should be willing to temporarily at least, finance engineering, organization, stock sale and other expenses. (Decision No. 8144.)

3. That none of the expenditures, which the ferry company herein seeks to have authorized by this Commission and enumerated heretofore in its opinion are "proper to cover organization expenses and expenses incident to the sale of stock" as said words are used by the Commission in Decision No. 8144, dated September 24, 1922.

4. That no debts incurred by the ferry company are a proper charge against the money impounded from the sale of stock except those heretofore authorized and ordered by the Commission.

14. That all of the moneys received from the sale of stock now deposited in Wells Fargo Bank and Union Trust Company at San Francisco or elsewhere deposited, are held in trust by said San Francisco-Richmond Ferry Company for its stockholders.

I submit the following form of order:

ORDER.

The San Francisco-Richmond Ferry Company having filed herein application to have the Commission determine the debts to be paid to the company out of funds impounded under the order of the Commission in the Wells Fargo Bank and Union Trust Company at San Francisco and direct the distribution of the remainder of said funds among the stockholders and O. R. Ludwig having filed his application to compel the San Francisco-Richmond Ferry Company to distribute said funds so impounded to the stockholders and both applications have been consolidated for hearing and heard at the same time and basing order upon said applications and the evidence adduced at the hearing and upon the facts set forth in the above opinion;

It is hereby ordered, that the portion of the application of the San Francisco-Richmond Ferry Company that certain alleged debts of the corporation as set forth in its application; and heretofore set forth in the preceding opinion be forthwith paid out of the funds of the San Francisco-Richmond Ferry Company on deposit with Wells Fargo Bank and Union Trust Company at San Francisco, California, be denied.

It is hereby further ordered, that none of the alleged debts of the San Francisco-Richmond Ferry Company, as set forth in its application and as enumerated in the preceding opinion, be paid out of the funds of the San Francisco-Richmond Ferry Company on deposit with Wells Fargo Bank and Union Trust Company.

It is hereby further ordered, that on or before the twentieth day of August, 1925, the San Francisco-Richmond Ferry Company file with this Commission a statement under oath setting forth the names of the stockholders of said company, the address of each, the number of shares of capital stock owned or held by each and the total amount of money that each of said stockholders respectively has paid to the San Francisco-Richmond Ferry Company and when said sums were paid and the place where said money is deposited and the name of the person, firm, or corporation, in whose name said money is deposited and upon the filing of said statement by said San Francisco-Richmond Ferry Company the Commission will, by supplemental order authorize and direct that said San Francisco-Richmond Ferry Company pay and return to each and all of the stockholders of the San Francisco-Richmond Ferry Company such sum of money as shall by said supplemental

ital order be determined by the Commission to be due to each of stockholders.

or all other purposes the effective date of this order shall be August 1925.

ated at San Francisco, California, this eighteenth day of July, 1925.

DECISION No. 15200.

THE MATTER OF APPLICATION OF STOCKTON ELECTRIC RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE EXERCISE OF FRANCHISE GRANTED BY ORDINANCE No. 960 OF THE CITY OF STOCKTON.

Application No. 11323.

Decided July 22, 1925.

CERTIFICATE—ELECTRIC RAILWAY—FRANCHISE PROVISIONS.—Granting a certificate to applicant to exercise a franchise granted by the city of Stockton, the Commission does so with the express provision that nothing therein shall be considered as having been approved by the Commission as any basis of fixing rates of fares on the railway system of applicant, or on any portion thereof.

For *L. Levinsky*, for Applicant.

For *Henry Johnston*, for the city of Stockton.

For *W. E. Mey*, Commissioner.

OPINION.

In this application, the Stockton Electric Railroad Company, a corporation, asks for a certificate of public convenience and necessity for exercise of a franchise granted June 1, 1925, by Ordinance No. 960, of the city of Stockton. A public hearing was held on this matter in Stockton on July 20, 1925.

The franchise under consideration provides for an extension of the northerly end of applicant's East Main street electric street railroad to Tuxedo Park northerly along Kensington way to the north line stadium drive, a distance of approximately 2815 feet. This extension is for the purpose of serving the College of the Pacific and a growing residential district. Applicant proposes to operate street cars on an 11-minute headway for approximately eighteen hours each day. The construction proposed is a double-track standard-gauge railroad with a T-rail weighing 75 pounds to the yard and with the usual overhead trolley suspension. Car equipment similar to that now in use on applicant's system will be operated.

Applicant's general manager testified that the proposed extension would cost approximately \$35,000 and that the cost of operation would be approximately \$10 a day.

It appears from the evidence that in the near future the main revenue will be derived from the extension under consideration will be from the College of the Pacific. Attendance at the college last year was 644,

with a faculty of approximately 100. The expected attendance at the session opening in September is from 800 to 1000 students. The faculty of the school has purchased thirty acres of property near the school for the erection of residences. This tract is already well built up. Plans are under way for the subdivision of the property adjacent to Kensington way.

The franchise passed for this extension is similar in its terms with Ordinance No. 908, granted by the city of Stockton in connection with an extension of this East Main street line into the Fair Oaks district (Application No. 10709). These two franchises differ only as regards time and location and in the clause in Ordinance No. 960 relative to rates of fare for school children. Council stipulated that in so far as the record in Application No. 10709 is relevant it should be considered as a part of the record in this proceeding.

Section 3 of the franchise attempts to provide a basis of rate regulation for the entire system of applicant, a matter exclusively within the jurisdiction of the Commission. This matter was fully discussed in the opinion of the Commission in Decision No. 14616, dated February 28, 1925 (Application No. 10709). The conclusion reached therein, that this provision expresses merely the attitude of the present officials of the city of Stockton as to what they believe is proper for the company to earn as a return upon investment and that nothing therein contained can absolve this Commission from its duty to fix fair and reasonable rates by the facts as they may be developed in any particular case under its own methods of investigation and in its own best judgment is equally applicable to the present proceeding and will be so considered.

Public convenience and necessity justify the construction of this extension as proposed by applicant. The following form of order is submitted:

ORDER.

Stockton Electric Railroad Company, having made application for a certificate of public convenience and necessity for the exercise of the franchise granted by Ordinance No. 960 of the city of Stockton, a public hearing having been held and the Commission being apprised of the facts, the matter being under submission and ready for decision.

It is hereby found as a fact that public convenience and necessity require the construction and operation of an electric railroad from a point in the city of Stockton located on the center line of Central avenue, at the east line of Oxford circle; thence on a curve to the right crossing Oxford circle to a point on the north line of said Oxford circle, said point being the intersection of the north line of Oxford circle with the center line of Kensington way; thence northerly along the center

line of Kensington way to a point on the north line of Stadium drive, a distance of approximately 2815 feet; therefore,

It is hereby ordered, that Stockton Electric Railroad Company be and it is hereby authorized to exercise the privilege and franchise granted by that certain Ordinance No. 960 of the city of Stockton, filed with the application as Exhibit "A," provided, however, that nothing herein shall be considered as having been approved by the Commission in this order as any basis of fixing rates of fares on the railway system of the applicant, or on any portion thereof.

The authority herein granted shall become effective on the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

The Commission reserves the right to make such further orders as may be necessary in this proceeding.

Dated at San Francisco, California, this twenty-second day of July, 1925.

DECISION No. 15201.

IN THE MATTER OF THE APPLICATION OF AUTO TRANSIT COMPANY, A CALIFORNIA CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSOLIDATE CERTAIN OPERATIVE RIGHTS AND OPERATE SAME AS ONE SYSTEM.

Application No. 10483.

Decided July 22, 1925.

CERTIFICATE—AUTO STAGES—UNIFIED OPERATION.—Application granted as applying to present routes.

L. E. McCurdy, for Applicant.

Edw. Stern, for American Railway Express Company, Protestant.

Warren E. Libbey and *Chas. A. Beck*, by *Chas. A. Beck*, for Pickwick Stages, Northern Division, Protestant.

BY THE COMMISSION.

OPINION.

In this proceeding Auto Transit Company, a corporation, seeks a certificate of public convenience and necessity authorizing it to consolidate its operative rights and to conduct the same as one unified system. In general, applicant requests permission to establish service for the transportation of passengers and express packages as a common carrier, between San Francisco and Santa Cruz, via Sunnyvale and Saratoga; between Santa Cruz and Monterey; and between Watsonville and Hollister, via Chittenden, Castroville and Salinas. It is alleged that the consolidation will better enable applicant to serve the

public by rendering such through and local service as may be required and that it will result in reduced operating costs, which should affect the rates now charged to the traveling public.

A public hearing was held before Examiner Austin at San Francisco on April 7, 1925, when evidence was offered, the matter was duly submitted, and it is now ready for decision.

The operative rights now owned by the applicant, and herein sought to be consolidated are as follows:

1. The right to operate an automobile stage line as a common carrier of passengers between San Francisco and Santa Cruz and intermediate points, subject to the limitation that no local business shall be handled by applicant herein between Menlo Park or Camp Fremont and San Francisco unless there are vacant seats in its automobiles, which are not required by through passengers between Santa Cruz and San Francisco, and that no local runs or service may be established between Menlo Park or Camp Fremont and San Francisco.

The route followed by applicant in conducting this service is not shown in the decision granting a certificate for this operative right but it appears from the instant application and the record herein that the line is operated via Sunnyvale and Saratoga.

A certificate for this service was granted to Auto Transit Company by this Commission's Decision No. 5900, on Application No. 3669, dated November 4, 1918.

2. The right to operate an automobile passenger stage service between Santa Cruz and Salinas via Watsonville, serving as intermediate points Soquel, Aptos, Freedom, Watsonville, Moss and Castroville; and in connection therewith, the right to operate an automobile passenger stage service between Castroville and Monterey, serving as intermediate points, Neponset, Marina, Gigling and Del Monte.

A certificate covering the route between Santa Cruz and Salinas via Watsonville was originally granted to John Nelson and George H. Harter by this Commission's Decision No. 7550, on Applications Nos. 5586 and 5587, decided May 10, 1920. Both Nelson and Harter were authorized by this decision to operate independently of each other over the same route.

By the Commission's Decision No. 8844, on Application No. 6464 dated April 9, 1921, Nelson and Harter, respectively, were authorized to operate the line between Castroville and Monterey in connection with their existing service between Santa Cruz and Salinas:

The operative rights above described held by Nelson and Harter were transferred to C. L. Simonds and O. A. Moon, pursuant to authority granted by this Commission's Decision No. 10137, on Application No. 7590, dated February 27, 1922.

Subsequently Simonds and Moon, who had operated this line under the fictitious name of Coast Transit Company, were permitted to transfer their operative rights to Auto Transit Company, applicant herein, pursuant to authority granted by this Commission's Decision No. 13813 in Application No. 9907, dated July 18, 1924.

3. The right to operate an automotive stage line as a common carrier of passengers and express packages between Watsonville and Hollister, Santa Aromas, Chittenden and San Juan.

A certificate for this service was granted to J. S. Nickols (who conducted the line under the fictitious name of Red Star Auto Stage Line) by this Commission's Decision No. 13502, on Application No. 10014, dated May 1, 1924.

By this Commission's Decision No. 13813, *supra*, Nickols, operating the Red Star Auto Stage Line, was authorized to transfer this operative right to Auto Transit Company, applicant herein.

In Decision No. 13813, the Commission expressly declined to permit consolidation of the operative rights therein authorized to be acquired by Auto Transit Company from O. A. Moon and C. L. Simonds, and from J. S. Nickols, respectively. In the pending application, Auto Transit Company seeks a consolidation of all the operative rights which have been described.

At the hearing, applicant called a number of witnesses, including its own officers and employees, and stage operators connected with other lines, who described the convenience to the public and the operating economies attendant upon the consolidation of applicant's system.

Mr. G. H. Higgins, president and manager of Auto Transit Company, testified that inquiries were received daily from the public regarding rough service, and that passengers expressed a desire to avoid transfers en route. By reason of the elimination of the necessity for transfers en route the proposed consolidation will be a great convenience to vacationists, sightseers, tourists and salesmen, carried over applicant's line. At present it is necessary to change cars at Santa Cruz, Watsonville and San Jose. Furthermore, it will result in operating economies, such as reduction in the number of cars operated and a saving in accounting, which will be reflected in a reduction of the rates. The traffic over applicant's lines is heaviest on the route between San Francisco and Santa Cruz, via Los Gatos. The fares shown in the statement (Exhibit A) accompanying the application, will be adopted for the consolidated service; so far as possible the present time schedules will be followed, there being no intention of expanding or abandoning any of the existing operative rights; and applicant will continue the use of its present equipment, with such additional cars as the service may require.

Applicant's ticket agent at San Francisco, Mr. I. O. Smeltzer, testified that he received frequent inquiries from the public relative to through service, and that when informed that transfers were necessary many people inquired as to through service over other lines. Similar testimony was given by Mr. J. S. Nickols, formerly owner of the Red Star Line and now a stockholder and employee of applicant. Many passengers, he stated, preferred other longer routes at higher fares where transfers en route were avoided. In his judgment the unification of the system will result in a saving of from 10 to 50 per cent. As to economies to be effected he mentioned the centralization of repair work in one shop, lower office expenses, less equipment, and a reduction in the number of drivers. To the same effect was the testimony of Mr. O. A. Moon and Mr. C. L. Simonds, formerly owners of the operative right between Santa Cruz, Salinas and Monterey, and now employed by applicant. Transfers at junction points, it was stated, sometimes resulted in loss of baggage, and caused frequent complaints among passengers due to their obtaining less desirable seats in the stages. Mr. Joseph B. Held, president and general manager of Peerless Stage, operating out of Oakland, and Mr. O. L. Swett, an experienced stage operator, both testified generally as to the economies and public advantages resulting from consolidation.

The granting of this application was protested by Pickwick Stage System and American Railway Express Company. The latter, however, withdrew its protest upon the stipulation of applicant that it sought no express rights additional to those it now owned.

Upon cross examination of applicant's witnesses, counsel for Pickwick Stages System elicited admissions that the most direct route from San Francisco to Hollister is by way of San Jose and San Juan; also that there is no great public need for through service to Hollister or Salinas via Santa Cruz. This protestant also submitted a statement showing a comparison of the round trip and one-way fares, and time schedules of applicant and protestant, respectively, between San Francisco and Monterey, Salinas, San Juan and Hollister. This indicated that in some instances the fares of protestant are substantially higher than those of applicant, but the running time is nearly the same.

From the record in this case, we believe that applicant should be authorized to consolidate its lines with respect to the operation of passenger service. However, in view of applicant's stipulation, its express rights will not be extended.

Upon full consideration of the evidence, we are of the opinion and hereby find as a fact that public convenience and necessity require the consolidation and unification of the operative rights of Auto Transfer Company, a corporation, and the operation, as one unified system, of through service for the transportation of passengers between all the

nini and intermediate points served by and along its present several
tes, which routes are as follows:

. Between San Francisco and Santa Cruz and intermediate points,
Sunnyvale and Saratoga, subject to the limitation that no local
inness shall be handled by applicant between Menlo Park and San
neisco unless there are vacant seats in its automobiles, which seats
not required by through passengers between Santa Cruz and San
neisco, and that no local runs or service are, or is, hereby authorized
may be established between Menlo Park and San Francisco; oper-
l pursuant to authority granted by this Commission's Decision No.
0 on Application No. 3669, dated November 4, 1918.

. Between Santa Cruz and Salinas via Watsonville, serving as inter-
liate points, Soquel, Aptos, Freedom, Watsonville, Moss and Castro-
e; and in connection therewith, between Castroville and Monterey,
ring as intermediate points, Neponset, Marina, Gigling and Del
te; operated pursuant to authority granted by this Commission's
ision No. 13813, on Application No. 9907, dated July 18, 1924.

. Between Watsonville and Hollister, via Aromas, Chittenden and
San Juan; operated pursuant to authority granted by this Commis-
sion's Decision No. 13813, in Application No. 9907, dated July 18, 1924.
In view of the fact that Camp Fremont has long since been aban-
ed, it is deemed unnecessary to continue in effect the limitations
in the handling of traffic to and from that point, expressed in the
omission's Decision No. 5900, which granted to applicant the right
operate between San Francisco and Santa Cruz.

and upon full consideration of the evidence we are of the opinion
hereby further find as a fact that public convenience and necessity
not require the extension of the right to transport express beyond
in addition to the right to transport express now held and enjoyed
Auto Transit Company in connection with its right to operate an
omotive stage line as a common carrier of passengers and express
ackages between Watsonville and Hollister, via Aromas, Chittenden

San Juan, operated pursuant to authority granted by this Com-
mission's Decision No. 13813, on Application No. 9907, dated July 18,
4.

an order will be entered accordingly.

ORDER.

. public hearing having been held in the above entitled application,
matter having been duly submitted, the Commission being now
y advised, and basing its order on the findings of fact appearing
he opinion which precedes this order:

he Railroad Commission of the State of California hereby declares
public convenience and necessity require the consolidation and

unification of the operative rights of Auto Transit Company, a corporation, and the operation, as one unified system, of through service for the transportation of passengers between all the termini and intermediate points, served by and along its present several routes, which routes are as follows:

1. Between San Francisco and Santa Cruz and intermediate points via Sunnyvale and Saratoga, subject to the limitation that no local business shall be handled by applicant between Menlo Park and San Francisco unless there are vacant seats in its automobiles, which seats are not required by through passengers between Santa Cruz and San Francisco, and that no local runs or service are, or is, hereby authorized or may be established between Menlo Park and San Francisco; operated pursuant to authority granted by this Commission's Decision No. 5900 on Application No. 3669, dated November 4, 1918.

2. Between Santa Cruz and Salinas via Watsonville, serving as intermediate points, Soquel, Aptos, Freedom, Watsonville, Moss and Castroville; and in connection therewith, between Castroville and Monterey serving as intermediate points, Neponset, Marina, Gigling and Del Monte; operated pursuant to authority granted by this Commission's Decision No. 13813, on Application No. 9907, dated July 18, 1924.

3. Between Watsonville and Hollister, via Aromas, Chittenden and San Juan; operated pursuant to authority granted by this Commission's Decision No. 13813, on Application No. 9907, dated July 18, 1924.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to Auto Transit Company, a corporation, to consolidate the operative rights described in the foregoing declaration, and to enable it to render through service under the aforesaid consolidated operative rights.

It is further ordered, that said application of Auto Transit Company in so far as it seeks permission to consolidate or extend its present operative rights for the transportation of express, be and the same is hereby denied, excepting that authority for the carriage of newspaper over all the lines of applicant as herein authorized to be consolidated is hereby granted.

The authority herein granted is subject to the following conditions:

1. Applicant herein shall file with the Railroad Commission its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, its tariff of rates and time schedules within a period of not to exceed ten (10) days from date hereof, such tariff of rates and time schedules to be identical with those attached to the application herein; and shall commence operation of said service within a period of not to exceed fifteen (15) days from date hereof.

The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be thirty (30) days from the date hereof.

Witness my hand at San Francisco, California, this twenty-second day of July,

DECISION No. 15202.

THE MATTER OF THE APPLICATION OF GEORGE HARM AND HAROLD FRASHER, COPARTNERS, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH AN AUTOMOBILE TRUCK LINE FOR THE TRANSPORTATION OF FREIGHT BETWEEN FRESNO AND DINUBA, CALIFORNIA, AND INTERMEDIATE POINTS AS SHOWN.

Application No. 9759.

Decided July 22, 1925.

CERTIFICATE—AUTO CARRIER.—Application granted.

For A. Encell and James A. Miller, by Harry A. Encell, for Applicant.
 For the Cosgrave for Schmidt and Emich (Dinuba Truck Line), Protestants.
 For Bradshaw, for Southern Pacific Company, Protestant.
 For Ford Stern, for The American Railway Express Company, Protestant.
 For Lacey, for The Atchison, Topeka and Santa Fe Railway Company, Protestant.
 For Ward Harris, for Dinuba Chamber of Commerce.
 For Nelson Seligman, for Dinuba Merchants Bureau.

THE COMMISSION.

OPINION.

George Harm and Harold Frasher, copartners, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile truck as a common carrier of freight between Fresno and Dinuba and intermediate points, together with the right to serve the territory between Fresno and Dinuba for a distance of five miles on each side of the highway to be traversed, provided, however, that no freight shall be carried between the points of Fresno and Fowler, Fresno and Selma, Fresno and Kingsburg.

The applicants propose to charge rates and to operate on a time schedule in accordance with Exhibits "A" and "B" attached to the application, to use the equipment described on page 2 of said application.

The Southern Pacific Company, American Railway Express Company, The Atchison, Topeka and Santa Fe Railway Company and Dinuba Chamber of Commerce, Dinuba Merchants Bureau and Dinuba Truck Line protested the granting of this application.

A public hearing on said application was conducted by Examiner Satterwhite at Fresno, the matter was submitted and is now ready for decision.

The decision in this matter has been held in abeyance pending a decision in the matter of the investigation on the Commission's own initiative into the methods and practices of operation by David Schmidt and F. K. Emich, copartners, in Case No. 2091, in which proceeding ordered to show cause why the certificate of public convenience and necessity granted to said David Schmidt and F. K. Emich under and by virtue of Decision No. 7973 in Application No. 5904, should not be revoked and annulled.

On July 10, 1925, this Commission rendered its Decision in said Case No. 2091, revoking and annulling said certificate of public convenience and necessity under said Decision No. 7973 and said David Schmidt and F. K. Emich were therein directed to cease and desist from the transportation of property by auto truck as a common carrier between Fresno and Dinuba and intermediate points, being the territory sought to be served by the applicants in the instant proceeding.

The evidence in this proceeding shows that a considerable volume of freight moves between Fresno and Dinuba and intermediate points proposed to be served by said applicants, but that there was no necessity for the operation of an additional auto truck freight line between the points proposed to be served. The record shows that said David Schmidt and F. K. Emich, in the operation of their authorized truck line, have been rendering satisfactory service between the points proposed to be served by the present applicants and but for the fact that their operative rights have been annulled or revoked there would be no need of any additional truck line.

In view of the fact, therefore, that the operative freight rights of said David Schmidt and F. K. Emich have been revoked and annulled as herein above indicated, we are of the opinion and hereby find as a fact that public convenience and necessity require the proposed freight truck line herein sought by said applicants.

The testimony in this proceeding shows that said applicants, George Harm and Harold Frasher, are competent and experienced truck operators and that each of said applicants are owners and operators of authorized truck lines in the San Joaquin Valley and we are of the opinion that their application should be granted.

ORDER.

A public hearing having been held in the above entitled application, the matter having been duly submitted and being now ready for decision, and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by George Iarm and Harold Frasher of an automobile truck line as a common carrier of freight between Fresno and Dinuba and intermediate points, together with the right to serve the territory between Fresno and Dinuba for a distance of five miles on each side of the highway to be traversed, provided, however, that no freight shall be carried between the points of Fresno and Fowler, Fresno and Selma and Fresno and Kingsburg.

It is hereby ordered, that a certificate of public convenience and necessity for the foregoing freight service be and the same is hereby granted, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from the date hereof; and shall file, in duplicate, tariff of rates, fares, rules and regulations, and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariffs of rates and fares, rules and regulations and time schedules to be identical with those attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed sixty (60) days from the date hereof, unless the time for commencement of operation hereunder is hereafter extended by a supplemental order of this Commission.

2. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated, nor service thereunder discontinued unless the written consent of the Railroad Commission to such assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to and approved by this Commission.

For all other purposes, other than hereinabove specified, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this twenty-second day of July, 1925.

DECISION No. 15206.

CLOVER VALLEY LUMBER COMPANY

vs.

WESTERN PACIFIC RAILROAD COMPANY.

Case No. 2132.

Decided July 23, 1925.

RATES—STEAM RAILROAD—LUMBER—REPARATIONS.—Reparations in the sum of \$101.52 awarded.

BY THE COMMISSION.

OPINION.

Complainant is a corporation engaged in the manufacture and sale of lumber and its products, with its principal place of business at Loyalton, California.

It is alleged by complaint filed June 9, 1925, that the rate assessed for the transportation of one carload shipment of steam shovels from San Francisco to Loyalton, moving on May 26, 1923, was unjust, unreasonable and discriminatory to the extent it exceeded 70½ cents per 100 pounds.

The shipment involved in this proceeding was registered with the Commission on April 21, 1925, thus staying the statute of limitation.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

The rate assessed by defendant was the Class A rate of 88½ cents published in Western Pacific Railroad Company's Local Joint and Proportional Freight Tariff No. 36-F, C. R. C. No. 257.

On the date this shipment moved, defendant maintained on interstate traffic a rate of 57½ cents on steam shovels, carloads, from San Francisco to Gerlach, Nevada, published in Special Local Freight Tariff G. F. D. No. 518-B. That tariff was not filed with this Commission, hence the 57½-cent rate did not apply as maximum at directly intermediate points in California.

The rate sought by complainant is based on what the combination rate over Hawley, California, would have been had the 57½-cent rate been in effect to points in California directly intermediate to Gerlach. By applying the Gerlach, Nevada, rate as maximum at Hawley, California, plus the Class A rate of 13 cents from the latter point to Loyalton, would have produced a through rate of 70½ cents. The latter rate was specifically published by defendant, effective September 26, 1923.

Defendant, in answer to the formal complaint, admits the allegation and signifies a willingness to make a reparation adjustment. Therefore under the issues as they now stand, a formal hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find that the rate assessed by defendant for the transportation of one carload of steam shovels moving on May 26, 1923, from San Francisco to Loyalton was unjust, unreasonable and discriminatory to the extent it exceeded 70½ cents; that complainant paid and bore the charges on the shipment in question and has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation in the sum of \$101.52.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Western Pacific Railroad Company be and it is hereby authorized and directed to pay unto complainant, Clover Valley Lumber Company, the sum of \$101.52 as reparation on account of the unreasonable and discriminatory rate exacted for the transportation of one carload of steam shovels moving from San Francisco to Loyalton on May 26, 1923.

Dated at San Francisco, California, this twenty-third day of July, 1925.

DECISION No. 15207.

STANDARD PAVING COMPANY

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
MODESTO AND EMPIRE TRACTION COMPANY.

Case No. 2123.

Decided July 23, 1925.

RATES—STEAM RAILROAD—SAND—REPARATION.—Reparation in the sum of \$51.90 awarded.

BY THE COMMISSION.

OPINION.

The complainant, Standard Paving Company, is a corporation, with its principal place of business at Modesto, and is engaged in the business of street paving.

It is alleged by complaint filed April 16, 1925, that the rate assessed by defendants for the transportation of nine carloads of sand moving during the period April 28, 1923, to August 13, 1923, inclusive, from

Antioch to Modesto, was excessive to the extent it exceeded 4 cents per 100 pounds.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

The rate assessed by defendants was 4½ cents, as published in item 400 of The Atchison, Topeka and Santa Fe Railway Joint Freight Tariff, C. R. C. No. 489.

The shipments involved moved via The Atchison, Topeka and Santa Fe Railway to Empire, thence Modesto and Empire Traction Company to Modesto. At the same time there was in effect a rate of 4 cents applicable via The Atchison, Topeka and Santa Fe Railway to Stockton, California, thence Southern Pacific Company to Modesto. This rate was made up of a combination of commodity rates over Stockton, the factors being 2½ cents from Antioch to Stockton and 2½ cents from Stockton to Modesto, as published in item 60 of The Atchison, Topeka and Santa Fe Railway Tariff C. R. C. 461, and first revised page 33 of Southern Pacific Tariff C. R. C. 2673, respectively, and both factors were subject to the provisions of Agent W. J. Kelly's Combination Tariff No. 228, C. R. C. No. 1.

Under the impression that the rates were the same via both routes complainant forwarded the shipments involved in this proceeding via The Atchison, Topeka and Santa Fe Railway to Empire, thence via the Modesto and Empire Traction Company to Modesto. Failure to publish the same rate via that route as concurrently in effect via the route of The Atchison, Topeka and Santa Fe Railway to Stockton thence via the Southern Pacific Company, appears to have been an oversight on the part of defendant carriers. Effective March 30, 1924 defendants established the 4-cent rate via the route over which the shipments moved.

Defendants admit the allegations of the complaint and have signified a willingness to make a reparation adjustment upon presentation to the Commission of suitable proof that the freight charges were paid and borne by complainant. Such proof in the form of a statement certified to by the secretary of complainant has been furnished the Commission, hence under the issues as they now stand a formal hearing will be unnecessary.

We find as a fact that the rate of 4½ cents per 100 pounds for the transportation of sand from Antioch to Modesto via the route of The Atchison, Topeka and Santa Fe Railway to Empire, thence Modesto and Empire Traction Company to destination, in connection with the nine cars involved in this proceeding, was excessive to the extent it exceeded the subsequently established rate of 4 cents per 100 pounds that the complainant paid and bore the charges on the shipments in

question; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation in the sum of \$51.90.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Modesto and Empire Traction Company, a corporation, and The Atchison, Topeka and Santa Fe Railway Company, a corporation, according as they participated in the transportation, be and they are hereby authorized and directed to pay into complainant, Standard Paving Company, a corporation, the sum of \$51.90 as reparation on account of the excessive rate exacted for the transportation of nine carloads of sand from Antioch to Modesto involved in this proceeding.

Dated at San Francisco, California, this twenty-third day of July, 1925.

DECISION No. 15208.

UNION OIL COMPANY OF CALIFORNIA, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, PACIFIC SYSTEM, A CORPORATION,
ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 2127.

Decided July 23, 1925.

RATES — STEAM RAILROAD — PETROLEUM PRODUCTS — REPARATION. — Reparation awarded for all charges collected in excess of 30½ cents per 100 pounds, Oleum to San Diego.

BY THE COMMISSION.

OPINION.

Complainant is a corporation engaged in the producing, refining and marketing of petroleum oils, with its principal place of business at Los Angeles. It alleges by complaint duly filed that rate of 33½ cents per 100 pounds assessed and collected by the defendants on eight carloads of petroleum lubricating oil and grease moved during the period August 7, 1923, to November 20, 1923, from Oleum, California, to San Diego, California, was unduly discriminatory to the extent such rate exceeded 30½ cents per 100 pounds.

Reparation only is sought, and rates will be stated in cents per 100 pounds.

The 33½-cent rate assessed and collected was on the basis of a 3-cent rate from Oleum, California, to Richmond, California, shown in Southern Pacific Tariffs 730-B, C. R. C. 2629 and 333-G, C. R. C. 2496, plus 30½ cents from Richmond, California, to San Diego, California, as published in The Atchison, Topeka and Santa Fe Tariff No. 9777-E, C. R. C. 508.

There was in effect at the time the shipments herein involved move at a rate of 30½ cents from Bay Point and Richmond to San Diego. Complainant requested that a 30½-cent rate be established from Oleum to San Diego, but such rate was not established until November 25, 1925, in Pacific Freight Tariff Bureau Tariff 167-A, C. R. C. 309.

Defendants, by answer duly filed, admit the allegations of the complaint. Under the circumstances, therefore, a public hearing will not be necessary.

We find the 33½-cent rate assessed and collected on the shipments involved in this proceeding were unduly discriminatory to the extent it exceeded a rate of 30½ cents.

We further find that complainant made the shipments as described and paid and bore the charges thereon; that complainant has been damaged to the amount of the difference between the charges paid and those that would have accrued at rate of 30½ cents, and is entitled to reparation.

Complainant should submit statement of shipments to the defendant for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should the same be necessary.

ORDER.

This case being at issue upon complaint and answer on file, further investigation of the matters and things involved having been had and basing this order on the findings of fact and conclusions contained in the opinion preceding this order, which opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the defendants, Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Union Oil Company of California, all charges they may have collected in excess of 30 cents per 100 pounds on the shipments involved in this proceeding.

Dated at San Francisco, California, this twenty-third day of July 1925.

DECISION No. 15215.

THE MATTER OF THE APPLICATION OF PICKWICK STAGES SYSTEM, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE LOCAL AUTOMOBILE STAGE SERVICE BETWEEN REDDING AND THE CALIFORNIA-OREGON LINE, NORTH OF COLE, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 11189.

Decided July 27, 1925.

CERTIFICATE—AUTO STAGE.—Restrictions on transportation of local passengers between Redding and the California-Oregon line, north of Cole, removed.

n E. Libby, for Applicant.

l. Bagby, for California Transit Company, Protestant.

d Stern, for American Railway Express Company, Protestant.

rn, Roehl and De Lancey C. Smith, by *H. H. Sanborn*, for Shasta Transit Company, Protestant.

Boggs, for Southern Pacific Company, Protestant.

THE COMMISSION.

OPINION.

Pickwick Stages System, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of local automobile stage service for transportation of passengers and express matter between Redding and the California-Oregon line, north of Cole, California.

Public hearing on this application was conducted before Examiner Ford at San Francisco, the matter was duly submitted and is ready for decision.

Under the conditions of the Commission's order as contained in Decision 1464 on Application No. 8067, as decided January 17, 1925, Pickwick Stages, Northern Division, a corporation (predecessor in name to Pickwick Stages System, applicant herein), was granted a certificate of public convenience and necessity covering the operation of an automobile stage line as a common carrier of passengers and express packages between San Francisco, California, and the California-Oregon line north of Cole, California; the order, however, granting a certificate in lieu of then existing certificates, one of which (Decision No. 5081 on Application No. 5081, as decided March 2, 1920, to Pickwick Stages, Northern Division, a corporation), containing a provision as follows:

It is ordered, however, that the authority herein conveyed does not authorize the operation of any local passengers between Oakland and Davis; that no local passenger seats be carried between Woodland and the California-Oregon line unless such seats are available in the equipment operated by applicant and such vacant seats are not required for the accommodation of through passengers between points in the State of California and points in the State of Oregon; and provided, further, that the authority is herein conveyed for the establishment of any local line between the intermediate points on the through route herein authorized; * * *

It appears from the record herein that the business of the Pickwick Stages System between San Francisco and Oregon points has materially increased and that frequently there is a demand for additional schedules and for the running of additional cars to cover the traffic offering for the present scheduled trips. It further appears that there is a material demand upon applicant to transport local passengers between Redding and the California-Oregon line which demand can be met if the applicant were authorized to establish local service between such points, the applicant possessing the only certificate authorizing the carriage of passengers over the route between Redding and the California-Oregon line, north of Cole.

The volume of business to be cared for is not sufficient to justify the establishment of a separate carrier between Redding and the California-Oregon line, north of Cole, and such fact was recognized by the Commission in Decision No. 14652 on Application No. 10102, decided March 11, 1925, where the Commission stated in denying the application of H. R. Pace and C. A. Thompson as follows:

The Commission, however, is convinced by the evidence in this proceeding that the limitations heretofore imposed on the local service of the Pickwick Stages, Northern Division (now Pickwick Stages System), in the territory between Redding and the California state line, as shown in said Decision No. 7209, above referred to, were removed, the public need for more public stage service over this particular route would be fully met. We, therefore, suggest the commencement of appropriate proceedings before this Commission by the Pickwick Stages, protestants, for an enlargement of its local service between Redding and California state line, which proceedings will be given early consideration.

While protestants appeared in this proceeding, there was no evidence offered in support of such protest which requires consideration herein.

Upon the record herein we are of the opinion and hereby find as a fact that public convenience and necessity require the enlargement of the operating rights now possessed by applicant herein by the removal of the restrictions contained in the Commission's Decision No. 14464 on Application No. 8067, as decided January 17, 1925, and an order removing such restrictions will be made herein.

ORDER.

Public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the findings of fact as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Pickwick Stages System, a corporation, of an automobile stage service for the transportation of passengers and express between Redding and the California-Oregon line, north of Cole, California; and

CALIFORNIA RAILROAD COMMISSION DECISIONS.

it is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to Pickwick Stages System, Corporation, such authority not to be construed as a new and separate certificate but as in addition to the rights heretofore granted by this Commission in its Decision No. 7209, on Application No. 5081, which rights are now possessed by applicant herein under the provisions of Decision No. 14464, on Application No. 8067, and

it is hereby further ordered, that the restrictions contained in the resaid Decision No. 7209, in so far as such restrictions refer to restrictions between Redding and the California-Oregon state line, north of Cole, California, and which restrictions read as follows:

That no local passengers are to be carried between Woodland and the California-Oregon line unless vacant seats are available in the equipment operated by applicant; such vacant seats are not required for the accommodation of through passengers between points in the State of California and points in the state of Oregon; and provided, further, that no authority is herein conveyed for the establishment of any line between any of the intermediate points on the through route herein authorized.

and the same hereby are canceled and annulled as to such portion of applicant's line between Redding and the California-Oregon state line, north of Cole, California.

it is hereby further ordered, that the certificate herein granted is subject to the following conditions:

1. Applicant herein shall file with the Railroad Commission its written acceptance of the certificate herein granted within a period of not to exceed five (5) days from date hereof; shall file, in duplicate, a tariff of rates and time schedules within a period of not to exceed ten (10) days from date hereof, such tariff of rates and time schedules to be identical with those attached to the application herein; and shall commence operation of said service within a period of not to exceed ten (10) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. For all purposes, other than hereinabove stated, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this twenty-seventh day of July, 1915.

DECISION No. 15218.

IN THE MATTER OF THE APPLICATION OF THE MURRIETTA VALLEY ELEVATOR COMPANY, A CORPORATION, FOR AUTHORITY TO EXECUTE A NOTE AND MORTGAGE TO THE SECURITY SAVINGS BANK OF RIVERSIDE, CALIFORNIA, AND TO ISSUE TWO PROMISSORY NOTES IN THE SUM OF FIVE HUNDRED DOLLARS EACH.

Application No. 11202.

Decided July 27, 1925.

SECURITIES—NOTES—To ISSUE.—Application granted.
Sarau and Thompson, by *George A. Sarau*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended, the Railroad Commission is asked to make an order authorizing Murrietta Valley Elevator Company to execute a mortgage and to issue a three-year 7 per cent note to Security Savings Bank of Riverside in the principal amount of \$7,500 and to issue two three-year 7 per cent notes for \$500 each; one to M. Thompson and one to C. A. Auld, two of its stockholders.

In a former application, No. 5314, filed February 2, 1920, the company reported to the Commission that at a cost of \$23,742.20 it had acquired real property in Murrietta and had constructed a reinforced concrete elevator building having a capacity of 30,000 bushels of grain and equipped with cleaning and weighing apparatus. Of the total cost the company had financed all but approximately \$12,000 through the sale of stock at par and it asked in its application for permission to issue a three-year 7 per cent note for \$12,000 to finance the remainder thereof. This request was granted by Decision No. 7112, dated February 11, 1920, and pursuant thereto the company on March 9, 1920, issued its 7 per cent note for \$12,000 payable March 9, 1923, to Security Savings Bank of Riverside.

The company now reports that up to January 1, 1925, there was owing and unpaid on the promissory note the sum of \$9,935. It appears that the Security Savings Bank of Riverside has demanded payment but has offered to renew the note provided that the principal amount be reduced to \$7,500. The company reports that it was unable to secure a renewal of the entire amount and was unable to sell sufficient stock to pay the indebtedness, and has therefore decided to accept the offer of the bank to issue its renewal note for \$7,500. It reports that it has paid, or intends to pay, the difference of \$2,435, with moneys obtained through surplus earnings, and from other funds on hand, and through the issue of two notes for \$500 each, payable to two of its stockholders.

therefore makes this application to issue its renewal note for \$7,500
 l also to issue the two \$500 notes.

ORDER.

Murrietta Valley Elevator Company having applied to the Railroad Commission for permission to execute a mortgage and to issue notes, public hearing having been held before Examiner Williams, and the Railroad Commission being of the opinion that the money, property labor to be procured or paid for by the issue of such notes is reasonably required by applicant for the purpose specified herein and that expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Murrietta Valley Elevator Company be and hereby is authorized to execute a mortgage substantially in the same form as the mortgage attached to the application herein, and to issue Security Savings Bank of Riverside its promissory note in the principal amount of \$7,500 payable on or before three years after date of issue with interest at not exceeding 7 per cent per annum.

It is hereby further ordered, that Murrietta Valley Elevator Company be and it hereby is authorized to issue two promissory notes for \$500 each, payable on or before three years after date of issue with interest at not exceeding 7 per cent per annum; one note to be issued to M. W. Thompson and one to C. A. Auld.

The authority herein granted is subject to the following conditions:

1. The proceeds to be obtained through the issue of the \$8,500 of notes herein authorized shall be used by applicant to refund in part the indebtedness to which reference is made in the foregoing opinion.

2. The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

3. Applicant shall file with the Railroad Commission within thirty days after the issue of the notes herein authorized a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. Applicant may, if it so desires, issue the notes herein authorized for a term of less than three years and may renew them from time to time, provided that the combined terms of the notes originally issued and of those issued in renewal do not exceed a period of three years after the dates of the notes originally issued hereunder.

5. The authority herein granted will become effective upon the hereof.

Dated at San Francisco, California, this twenty-seventh day of 1925.

DECISION No. 15219.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES, SERVICE, RULES, REGULATIONS AND PRACTICES OF THE SOUTHERN PACIFIC COMPANY.

Case No. 2041.

Decided July 30, 1925.

BY THE COMMISSION.

ORDER DENYING REHEARING.

Petition for rehearing having been filed in the above-entitled matter by the Southern Pacific Company, and oral arguments having been heard and considered by the Commission upon said petition, and the Commission being of the opinion that no sufficient reason appears for the granting of a rehearing herein; now, therefore,

It is hereby ordered, that the petition of the Southern Pacific Company for a rehearing in this matter, be and the same is hereby denied and

It is hereby further ordered, that in accordance with the terms of said Decision and Order No. 15119 of this Commission that the Southern Pacific Company be and it is hereby ordered and required to desist on or before the fifth day of August, 1925, and thereafter to abstain from publishing, maintaining and applying rates and fares not in accordance with the rates and fares set forth in Exhibit "A," attached to and made a part of said Decision No. 15119; and

It is hereby further ordered, that the Southern Pacific Company be and it is hereby ordered and required to establish on or before August 5, 1925, upon notice to this Commission and to the general public, rates not less than three (3) days' filing and posting of tariffs in the manner prescribed in section 14 of the Public Utilities Act, and thereafter to maintain and apply the rates and fares prescribed in Exhibit "A," attached to and made a part of said Decision No. 15119.

Dated at San Francisco, California, this thirtieth day of July,

DECISION No. 15220.

MATTER OF THE APPLICATION OF THE IMPERIAL UTILITIES CORPORATION FOR AUTHORIZATION TO ESTABLISH CERTAIN RATES FOR WATER SERVICE AND CERTAIN REGULATIONS FOR SERVICES IN THE TOWN OF BARSTOW, SAN BERNARDINO COUNTY, CALIFORNIA.

Application No. 10676.

Decided July 30, 1925.

WATER UTILITY.—Rates calculated to bring a fair return established.

Wentzinger, for Applicant.

Wentzinger, for Applicant.

Wentzinger, for Chamber of Commerce.

COMMISSION.

OPINION.

Imperial Utilities Corporation, applicant herein, is a public utility company engaged in the business of furnishing water for domestic and commercial purposes in the towns of Barstow, San Bernardino County, Calipatria and Niland in Imperial County, and the district near Monterey Park, Los Angeles County. This application involves only the water system at Barstow.

Applicant alleges in effect that since the rates now in effect were fixed by the Railroad Commission in 1920, it has spent a considerable amount of money in enlarging its storage facilities and upon the improvement of the distribution system, including the installation of meters; that the majority of the metered water users in Barstow pay eight months of the year only the minimum of one dollar per month; that the basic flat rate charge is \$1.50 per month and completion of the metering of the entire system, the present rates, particularly the low minimum monthly charge of one dollar, will not produce sufficient revenue to meet operating expenses, depreciation and a just return upon the capital invested. Applicant requests the Commission to authorize a schedule of rates set forth in the application herein based upon a minimum monthly charge for metered service of \$1.50 for five hundred cubic feet of water or less. A public hearing in this proceeding was held before Examiner at Barstow, San Bernardino County, after all interested parties had been duly notified and given an opportunity to appear and be heard.

The Barstow water system of Imperial Utilities Corporation consists of wells from which water is pumped by electrically-driven deepwells into a 220,000-gallon steel tank, located on a nearby hilltop. Water is then distributed by gravity through 26,380 feet of mains ranging from six inches to one inch in diameter, to about 323 consumers. Present there are only 118 services metered, but it is proposed to

meter the remaining services progressively so that the system will entirely metered by the end of the present year. Barstow is a division point on The Atchison, Topeka and Santa Fe Railway, which is the applicant's largest consumer. Approximately 65 per cent of the revenues of the entire system are derived from the sale of water to the Santa Fe railroad.

The present schedule of rates charged on this system was established by this Commission in Decision No. 7138, dated February 13, 1920, and is as follows:

Meter Rates.

Minimum monthly charge, \$1 for 400 cubic feet or less.
Over 400 cubic feet to 2,000 cubic feet, 15 cents per 100 cubic feet.
Over 2,000 cubic feet, 10 cents per 100 cubic feet.

Wholesale Rates.

1,000,000 to 10,000,000 gallons, 6½ cents per 1,000 gallons
10,000,000 to 15,000,000 gallons, 5½ cents per 1,000 gallons.
Over 15,000,000 gallons, 5 cents per 1,000 gallons.

Monthly Flat Rates.

Minimum ----- \$1
(Additional charges are made, depending on facilities and classification of premises.)

The application in this proceeding sets out that the book value of the installed capital of this system as of September 30, 1925, was \$40,430 and that the construction work in progress to and including December 31, 1924, was estimated to be \$10,629, making a total investment as of December 31, 1924, of \$51,066. The application further sets out the inventoried value of the system as \$45,928 on September 30, 1924, which, upon adding the above \$10,629 for the estimated cost of construction work in progress to the end of the year, results in an estimated cost of \$56,557 as of December 31, 1924.

The application states that for the year ending September 30, 1924, the revenues were \$20,648 and the maintenance and operating expenses were \$16,800 exclusive of depreciation, which was carried at \$1,330. No estimate of the future costs of operation and maintenance was submitted by applicant.

A report was submitted by D. H. Harroun, one of the Commission's engineers, embracing the results of a field investigation, an appraisal of the properties and a study of the cost of maintenance and operation. This appraisal shows the estimated original cost of the used and useful properties of the system to be \$53,860 as of December 31, 1924, and sets forth the sum of \$939 as the replacement annuity computed by the 6 per cent sinking fund method. This report gives the operating and maintenance expenses for the year 1924 as \$17,440 and estimates these expenses for the immediate future to be \$18,292.

careful consideration of the evidence leads to the conclusion that sum of \$53,860 is a reasonable rate base for the purposes of this finding. It is apparent to the Commission that the overhead expenses for the operation of this system as charged by applicant are better than the conditions and size of the plant warrant. However, the increased cost resulting from meter reading and meter repairs, which occur upon the complete metering of this system, will to some extent offset the present excess overhead expenses. It appears, therefore; that the sum of \$17,000 will be a reasonable amount for the maintenance and operating expenses for the immediate future.

The evidence shows that certain overcharges for water delivered last year to the Santa Fe railroad have occurred, which have been corrected and rebated subsequent to the filing of the application herein. The audited figures show that the total revenues receivable for the year ending December 31, 1924, were \$19,505. This indicates a return of approximately 2.9 per cent on an investment of \$53,860, which return can be further reduced when the entire system is metered and those rate consumers now paying a minimum monthly charge of \$1.50 are placed upon the metered basis and charged under present monthly minimum rate of one dollar. It is apparent that some adjustment in rates is necessary in order to produce sufficient revenues to yield a fair return on the investment.

The testimony presented at the hearing showed that in the past the distribution system was inadequate and urgently needed the installation of additional mains to provide proper service to all portions of the service area. The necessary improvements to the distribution system have now been completed and the mains are already in service.

The schedule of rates established in the following order is designed to provide for maintenance and operating expenses, a depreciation annuity, also to provide a reasonable return upon the investment under the existing circumstances.

ORDER.

Imperial Utilities Corporation, having made application to the Railroad Commission as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Imperial Utilities Corporation for water supplied to its consumers in the town of Brawley are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for the service rendered; and basing the order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

it is hereby ordered, by the Railroad Commission of the State of California that Imperial Utilities Corporation be and it is hereby

directed to file with this Commission within twenty (20) days of the date of this order, the following schedule of rates for all water delivered to consumers in Barstow, San Bernardino County, subsequent to July 31, 1925:

Flat Rates.

	P mo
Tenement buildings, lodging houses or residences, 6 rooms or less, one toilet, one bath, one lot not to exceed 60 by 150 feet in size-----	\$1
Each additional room-----	
Each additional toilet, bath or urinal-----	
Horses or cows, one-----	
Each additional horse or cow-----	
Automobiles, each-----	
Small stores and shops-----	2
Hotels, base rate-----	2
Each room having running water or bath-----	
All other rooms-----	
Hotels with dining room in connection, additional charge-----	4
Restaurants and eating houses-----	4
Business blocks and floor, not exceeding five offices-----	2
Each additional office-----	
Stores, warehouses, butcher shops, confectionery shops, halls, billiard parlors, etc.-----	2
Drug stores and bakeries-----	2
Barber shops, one chair only-----	2
Each additional chair-----	
Photograph galleries-----	2
Laundries-----	2 00 to 8
Lumber yards-----	5
Public baths, each-----	1
Public water troughs, each-----	1
Steam boilers or gas engines, each per indicated horsepower-----	
Soda fountains, in addition to base rate for stores, each-----	1
Cotton gins, for not more than 6-stand gin-----	5
Each additional gin-----	
Lime for building purposes, for each 100 square yards plastered-----	
For all purposes, per barrel lime-----	
Concrete curb, per lineal foot-----	
Fire hydrants, each-----	1
Graded streets, water used in settling street, per 100 lineal feet-----	1
Water for irrigation of lots per 100 square feet lot area-----	
For each 1000 bricks laid-----	

Measured Rates.

Minimum monthly charges—

$\frac{5}{8}$ -inch meter-----	1
$\frac{3}{4}$ -inch meter-----	2
1-inch meter-----	3
1 $\frac{1}{4}$ -inch meter-----	6
2-inch meter-----	7

Each of the foregoing "minimum monthly charges" will entitle the consumer the quantity of water which that minimum will purchase at the "monthly minimum rates" set out as follows:

Monthly meter rates—

From 0 to 600 cubic feet, per 100 cubic feet-----	
From 600 to 1,200 cubic feet, per 100 cubic feet-----	
From 1,200 to 3,000 cubic feet, per 100 cubic feet-----	
All over 3,000 cubic feet, per 100 cubic feet-----	

Wholesale rates—

For all water delivered to Atchison, Topeka and Santa Fe Railroad in wholesale quantities, per 100 cubic feet-----

54—36855

It is hereby further ordered, that Imperial Utilities Corporation be and it is hereby directed to file with this Commission within thirty (30) days of the date of this order, rules and regulations to govern relations with its consumers in Barstow, such rules and regulations to become effective upon their acceptance by the Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this thirtieth day of July, 1925.

DECISION No. 15222.

THE MATTER OF THE APPLICATION OF THE CENTRAL SQUARE WATER SUPPLY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 11169.

Decided July 30, 1925.

RATES—WATER UTILITY.—Rates comparable to similar rates charged by similar utilities under like conditions, established.

by *Frank A. Daugherty*, for Applicant.

THE COMMISSION.

OPINION.

In the above entitled application S. W. Gast, doing business under the fictitious name of Central Square Water Supply, asks for a certificate of public convenience and necessity authorizing him to operate a public utility water system for the purpose of supplying water to Tract No. 6056, Los Angeles County.

A public hearing was held in this matter before Examiner Williams in Los Angeles after due notice thereof had been given so that all interested parties might appear and be heard.

Authority was granted at the hearing permitting the amending of the original application to show that it was made in the name of S. W. Gast, doing business under the fictitious name of Central Square Water Supply.

The evidence shows that this water system was installed to aid in the sale of lots in Tract No. 6056, for which there is no other available water supply. The pipe lines were installed prior to the acceptance of the streets by the county, which eliminates the necessity of securing a water utility franchise.

No one appeared to contest the granting of the application and it appears that public necessity demands that this application be granted. The proposed rate schedule submitted by applicant is comparable to the rates charged by similar utilities under like conditions, and will be authorized in the following order:

ORDER.

S. W. Gast having made application as entitled above, a public hearing having been held thereon, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require S. W. Gast, doing business under the fictitious name of Central Square Water Supply operate a water system for the purpose of supplying water in Tract No. 6056, Los Angeles County.

It is hereby ordered, that S. W. Gast, doing business under the fictitious name of Central Square Water Supply, be and he is hereby authorized and directed to file with the Railroad Commission of the State of California, within twenty (20) days from the date of this order, following schedule of rates to be charged for all service rendered subsequent to July 31, 1925:

Monthly Flat Rates.

1. Residences, boarding houses, apartments and flats of five rooms or less--- \$
For each additional room-----
2. Hotels and office buildings, for each room-----
3. Restaurants, per unit of seating capacity-----
4. Bottling works, creameries, slaughter houses, packing houses and factories,
 $\frac{1}{2}$ -inch connection----- 1
 2-inch connection----- 2
5. Irrigation from 4-inch service, per hour-----

NOTE.—Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility, the entire cost shall be borne by the utility. If installed at the request of the consumer, the cost of the meter and installation shall be advanced by the consumer to the utility, and money so advanced shall be refunded to the depositor as credits on monthly bills for water furnished, at the rate of fifty (50) per cent of the total amount of monthly bills.

Meter Rates.

Monthly minimum charges—

$\frac{1}{8}$ -inch meter	-----	\$
$\frac{1}{4}$ -inch meter	-----	
1-inch meter	-----	
1 $\frac{1}{2}$ -inch meter	-----	
2-inch meter	-----	

Monthly meter rates—

For 500 cubic feet or less	-----
From 500 to 1,000 cubic feet, per 100 cubic feet	-----
From 1,000 to 3,000 cubic feet, per 100 cubic feet	-----
All over 3,000 cubic feet, per 100 cubic feet	-----

It is hereby further ordered, that S. W. Gast be and he is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing the distribution of water to his consumers, said rules to become effective upon their approval by this Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this thirtieth day of July, 1925.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 15228.

UNION ROCK COMPANY, A CORPORATION,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
A CORPORATION.

Case No. 2094.

AMERICAN CRUSHED ROCK COMPANY, A CORPORATION,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
A CORPORATION.

Case No. 2095.

Decided July 30, 1925.

ES—STEAM RAILROAD—ROCK AND GRAVEL.—Complainants having failed to show rate assailed is unreasonable, unjustly discriminatory, or unduly preferential, complaint is dismissed.

h Gordon and B. H. Carmichael, for Union Rock Company and American Crushed Rock Company, Complainants.

V. Camp, B. Levy and Charles K. Adams, for The Atchison, Topeka and Santa Fe Railway Company, Defendant.

born, Rochl and DeLancey C. Smith, by *H. H. Sanborn and James A. Keller*, for Reliance Rock Company, Intervener.

RES, *Commissioner*.

OPINION.

These cases were, by agreement of counsel, heard on one record and be disposed of in one report.

Complainants, Union Rock Company (Case No. 2094), and American Crushed Rock Company (Case No. 2095), are corporations engaged in manufacture and sale of crushed rock, sand and gravel, with their principal offices at Los Angeles.

The complaints in both cases were filed January 30, 1925, and allege; the rate of \$5.85 per car maintained by defendant for the transportation of crushed rock, sand and gravel from Kincaid to Azusa, published in Santa Fe Local Tariff C. R. C. No. C. L. 608, is unreasonable, unjust, discriminatory, preferential and in violation of sections 17 and of the Public Utilities Act to the extent that it is lower, when used in conjunction with rates on crushed rock, sand and gravel to points and Azusa via the Pacific Electric line, than the regular two-line basis alleged to be maintained by rail lines in southern California for the transportation of these commodities.

The Commission is asked to prescribe a just, reasonable and non-discriminatory rate for the future.

The Reliance Rock Company, a corporation, with its principal place of business at Los Angeles, operating a rock crushing plant at Kincaid

and shipping rock under the rate under attack, intervened in its own behalf, protesting the granting of the petition upon the plea that it had a direct and vital interest in the outcome of the proceeding.

A public hearing was held in Los Angeles, April 24, 1925, and the cases having been submitted and briefs having been filed and considered, are now ready for an opinion and order.

Kincaid is located on defendant's line two miles from Azusa, the latter station being the interchange point between its rails and the rails of the Pacific Electric Railway.

The complainant, Union Rock Company, maintains crushed rock, sand and gravel plants at Kincaid on defendant's line, at Puente Largo on the Pacific Electric line, and at Rivas, Baldwin Park and Crushton, points served by both the Southern Pacific and Pacific Electric lines. The plants at Puente Largo and Kincaid are connected by a track approximately five-eighths of a mile long, owned and maintained by the complainant, and equipment is moved over this track by and at the expense of the Union Rock Company. The plant of the American Crushed Rock Company is located at Claremont on the Pacific Electric line and that plant is also connected with defendant's line by a spur track constructed, maintained and operated by complainant. The American Crushed Rock Company is controlled by the Union Rock Company through stock ownership.

The complaint alleges that the track connection at Azusa between the rails of the defendant and the Pacific Electric Railway was installed some time during the year 1916 to meet an emergency presented by the Pacific Rock and Gravel Company, complainant's predecessor, whose crushing plants at Butler on the rails of the defendant had been washed out by floods. The last-named company desired at that time to make deliveries of crushed rock from its Puente Largo plant on the Pacific Electric line. The connection was used in the manner described for about two years, or until the Union Rock Company established its present plant at Kincaid.

Complainants further contend that after the construction of its rock crushing plants at Kincaid on the rails of the defendant, the connecting track at Azusa was only employed during periods of car shortage for the purpose of enabling equipment of the defendant to move over the connecting tracks to Puente Largo on the rails of the Pacific Electric Company. It is claimed that complainants have made no use of the interchange tracks at Azusa since 1920.

The per car charge on crushed rock, sand and gravel from Kincaid to Azusa was first established in the early part of 1917, and at that time was \$5. By the general increase, effective August 26, 1920, and the general 10 per cent reduction, effective July 1, 1922, this rate was

essfully increased to \$6.50 and then reduced to \$5.85. The latter remained in effect until November 25, 1924, when it was temporarily canceled. This cancellation of an alleged unused and dead rate authorized with the usual stipulation prescribed by the Commission that should any movement develop within twelve months after cancellation the rate would be restored by defendant without protest. During the latter part of December, 1924, intervener advised the Commission that it contemplated shipping crushed rock from its plant at said on or about February 1, 1925, and requested restoration of canceled rate. The rate was therefore republished and made effective February 1, 1925.

Complainants point out that for a two-line haul carriers in southern California generally apply a differential of thirty cents per ton over one-line rates, although in some cases the differential is twenty cents, and they contend that by reason of these differentials and the commercial competition in southern California in the commodity in which they deal, it is imperative that their plants be so situated they can, in most instances, market their products by the use of a line haul. The testimony shows that to enjoy this privilege and advantage they have, at considerable expense, erected plants at various localities, making it possible by direct connection or by the construction of spur tracks to fill practically all orders for rock, sand and gravel from plants thus located so as to require only the services of one carrier; in other words, they have sought to eliminate the two-line charges.

The cause of action of the complaints in these cases thus appears to be based on the premise that the per car charge of \$5.85 from Kincaid, California, used in connection with the one-line rates on shipments destined to points beyond, affords complainant's competitors a lower freight rate than would be in effect were defendant and its connections required to apply the regular one-line scale basis, plus a differential of twenty or thirty cents per ton for the two-line haul, and that maintenance of this \$5.85 per car rate unduly discriminates against complainants and unduly prefers their competitors located at Kincaid. Complainants presented a number of exhibits comparing the crushed rock rates in effect for a one-line haul between selected points in southern California and the rates between points in the same territory corresponding distances involving a two-line haul. The rates, for the most part, show differentials of twenty or thirty cents, there being no uniform basis.

Intervener urges that the two-line rates set forth in the exhibits presented by complainants are paper rates, for if complainants so elected, they could ship between the points covered by the exhibits via one line,

or if shipments were destined for delivery at the large terminals on the line other than the one performing the line haul, then at the one-line rates plus a switching charge of \$2.70 per car. Attention is further directed to the per-car rates in effect in southern California between Los Angeles and the points named, applicable on freight regardless of classification, when originating at or destined to points beyond Los Angeles, which complainants admit are used by them in the market for their quarry products:

Between	and	Distance in miles
Los Angeles	Industrial	4.0
Los Angeles	Florence	7.0
Los Angeles	Slauson	7.0
Los Angeles	Wildasin	8.0
Los Angeles	Forest Lawn	6.0
Los Angeles	Clifford Spur	6.0
Los Angeles	Glassell	6.0

NOTE.—The above rates are to be found in Southern Pacific Company Tariff 730-C. C. R. C. 2904; The Atchison, Topeka and Santa Fe Tariff 8117-J, C. 542; Los Angeles and Salt Lake Railroad Tariff 133-D.

The \$5.85 per-car charge published by the defendant Kincaid at Azusa, applies, as heretofore stated, only as a proportional rate for shipments delivered to the Pacific Electric line destined to points beyond that line. This rate, however, is not the only per-car rate for quarries in this grouped-producing territory. Pacific Electric Tariff No. 120-B carries a rate of \$2.70 per car from Puente Largo to Rivas applicable only when destination is to Southern Pacific points, and a rate of \$7.20 per car from Puente Largo and Rivas to Azusa when shipments are destined to points on defendant's lines. It is thus apparent that if complainant's petitions were granted, and the \$5.85 rate ordered reduced, they would have a decidedly preferential adjustment from Puente Largo and Rivas as compared with the intervener, Reliance Rock Company, shipping from Kincaid. Complainants would have the one-line rate plus the per-car charge to junction points, while the intervener shipping from the same territory, would have only the two-line rate with the differential of thirty cents per ton.

To constitute unjust discrimination or undue preference a carrier must charge one shipper a greater or less amount than another for the transportation of a like kind of traffic under similar circumstances and conditions. To be unjust, discrimination must be unlawful—it is to say, forbidden by law—and those acts of the carrier which constitute unjust discrimination are questions of fact to be ascertained from the evidence. (*Am. Coal and Coke Co. vs. M. C. R. R.* 36, I. C. C. 195. *R. R. Com. of La. vs. Aranson Harbor Terminal Ry. Co. et al.* 48 I. C. C. 312.)

Complainants admit that the movement of the bulk of their shipments involves only a one-line haul. The evidence shows that with

re compelled to use a two-line haul they may do so under rates on the one-line scale, plus a per-car switching rate, or a per-car haul rate, lower than the \$5.85 per-car rate from Kincaid to Azusa. \$5.85 rate, Kincaid to Azusa, may be used by complainants the same as by their competitors. Hence having in view the definition of discrimination to which reference has been made, I am unable to permit in what respect, under the facts disclosed by this record, complaints are subjected to unjust discrimination.

complaints also allege that the rate of \$5.85 is unreasonable, but no serious attempt was made to sustain that allegation. Indeed, counsel for complainants stated that the complaints are primarily directed against the discriminatory feature of the rate.

In consideration of all the facts of record, I am of the opinion and hold that complainants have failed to show that the rate assailed is unreasonable, unjustly discriminatory or unduly preferential. The complaints should be dismissed.

The following form of order is recommended:

ORDER.

In the cases being at issue upon complaints and answers on file, and which have been duly heard and submitted by the parties, full investigation of the matters and things involved having been had and the Commission having, on the date hereof, made and filed its opinion containing findings of fact and conclusions thereon, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered that the complaints in this proceeding be and the same be hereby dismissed.

The foregoing opinion and order are hereby approved and ordered to stand as the opinion and order of the Railroad Commission of the State of California.

Witness my hand and seal at San Francisco, California, this thirtieth day of July, 1925.

DECISION No. 15229.

IN THE MATTER OF THE APPLICATION OF JAMES R. STEPHENS, OF MURPHYS, CALIFORNIA, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 11415.

Decided July 30, 1925.

CERTIFICATE—TELEPHONE UTILITY—RATES.—Certificate granted to James R. Stephens to operate telephone utility, and rate of \$1 per station per month established for service, conditional upon applicant filing evidence with the commission that he has made such improvements as will make possible the rendering of satisfactory service.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

BY THE COMMISSION.

ORDER.

In this proceeding, James R. Stephens has asked for a certificate of public convenience and necessity allowing him to operate as a public utility a telephone system consisting of a telephone line extending from Murphys to Sheep Ranch in Calaveras County, California, by way of and through San Domingo Creek, Indian Creek and San Antonio Creek and to furnish telephone service to patrons located on the ranches and at the mines adjoining and adjacent to the public road between these towns.

Applicant states that his telephone system, if operated as a public utility, would not compete with any other similar utility except the telephone system owned by A. W. Poe, which system serves Sheep Ranch and vicinity. Applicant has appended to his application a signed statement by A. W. Poe in which the latter expresses his willingness that this application be granted, provided applicant establishes one telephone station in the town of Sheep Ranch.

It appears that the telephone line by which applicant intends to render public utility service has been in existence for a number of years but to date applicant has never collected any revenue from the use of the line. During the past, this line has been poorly maintained and is not now in condition to render satisfactory service. Applicant desires to reconstruct the line and asks that a rate of one dollar per month per station be authorized for use of the line by patrons so that sufficient revenue may be had for proper maintenance and the furnishing of adequate service.

The Railroad Commission having fully considered these facts and being of the opinion that this is a matter in which a public hearing is not necessary; that the community may be better served by the operation of this line as a public utility and that applicant's request should be granted, the Railroad Commission hereby declares that public convenience and necessity require James R. Stephens to operate a telephone system extending from Murphys to Sheep Ranch and to furnish adequate telephone service within the territory, as shown in Exhibit No. 1 attached hereto; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to James R. Stephens authorizing him to operate and maintain as a public utility, said telephone system within the territory as set forth in Exhibit No. 1 attached hereto.

It is hereby further ordered, that James R. Stephens shall collect and collect a rate of one dollar per station per month for telephone service furnished over said line from and after September 1, 1922.

The authority herein contained is granted upon the following conditions, and not otherwise:

(1) James R. Stephens shall submit to the Railroad Commission on or before August 25, 1925, evidence that the hereinabove described telephone line extending from Murphys to Sheep Ranch has been constructed and placed in condition to render satisfactory telephone service.

(2) James R. Stephens shall submit for filing with the Railroad Commission on or before September 1, 1925, the rate for telephone service set forth above, a map showing the territory to be served as set forth under Exhibit 1, attached hereto, and Rules and Regulations governing telephone service.

(3) James R. Stephens shall not connect to said line more than one station within the town of Sheep Ranch.

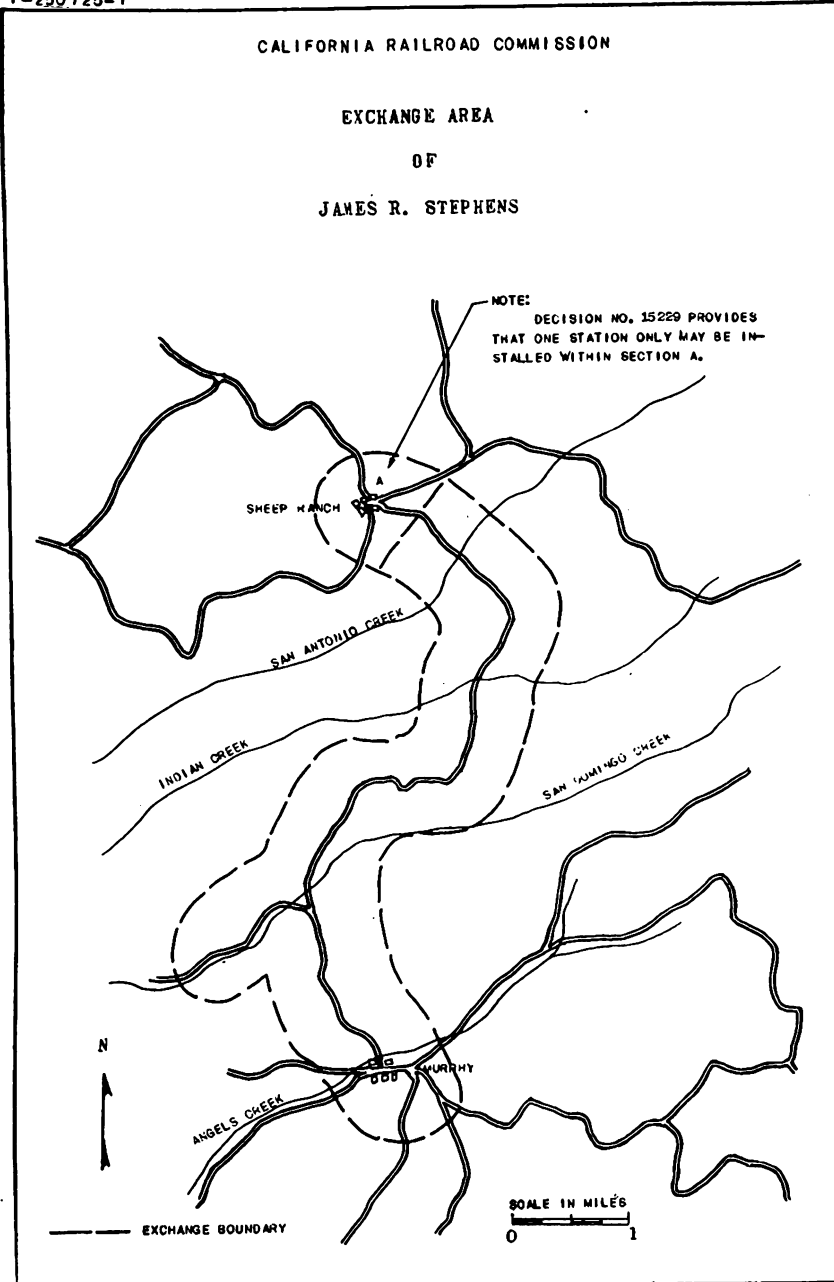
For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this thirtieth day of July, 1925.

EXHIBIT NO. 1.

EXCHANGE AREA OF JAMES R. STEPHENS TELEPHONE COMPANY.

T-250725-T



CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 15235.

ANAHEIM SUGAR COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2118.

Decided July 31, 1925.

STEAM RAILROAD—SUGAR BEETS—REPARATION.—Defendant carrier ordered refund to complainant all charges paid on shipments involved that may have been collected in excess of 3 cents per 100 pounds, minimum carload weight 1000 pounds.

COMMISSION.

OPINION.

Complainant is a corporation engaged in the business of producing and the buying of sugar beets and the refining of sugar. It alleges in its complaint filed April 8, 1925, that a rate of 5 cents per 100 pounds was demanded and collected for the transportation of sixty-four carloads of sugar beets moved from Smeltzer to Anaheim during period August 2, 1920, to August 25, 1920, inclusive, was excessive, unreasonable and in violation of section 17 of the Public Utilities Act to the extent it demanded 3 cents per 100 pounds. It is further alleged a rate of 6 cents was demanded and collected for the transportation of twenty carloads of sugar beets moved from Smeltzer to Anaheim during period August 26, 1920, to August 30, 1920, inclusive, was excessive, unreasonable and in violation of section 17 of the Public Utilities Act to the extent it demanded a rate of 4 cents per 100 pounds.

Reparation only is sought and rates will be stated in cents per 100 pounds.

Defendant, by amended answer filed May 15, 1925, admits the allegations of the complaint and prays that the Commission take such action in the premises as may be meet and proper. Under the circumstances, therefore, a public hearing will not be necessary.

Shipments here involved were moved during the so-called Federal Emergency period and were registered with this Commission to toll the Statute of Limitation under date of August 2, 1922, Commission's formal docket No. 24696.

Commission, under its informal docket No. 23519, authorized defendant to refund to Anaheim Sugar Company on shipments of sugar beets moved from Smeltzer to Anaheim, September 1, 1920, subsequent thereto, the difference between the rate of 6 cents demanded and collected, and rate of 4 cents, which latter rate was established May 25, 1921, in Southern Pacific Tariff 10-D, C. R. C. 2538.

We find the rates assessed and collected on shipments moved during period August 2, 1920, to August 25, 1920, inclusive, and involved in this proceeding, were excessive and unreasonable to the extent that they exceeded a rate of 3 cents and that the rate assessed and collected on shipments moved during period August 26, 1920, to August 30, 1920, inclusive, was excessive and unreasonable to the extent that it exceeded a rate of 4 cents.

We further find that complainant made the shipments as described and paid and bore the charges thereon; that complainant has been damaged to the amount of the difference between the charges paid and those that would have accrued at the rates herein found reasonable and is entitled to reparation. Complainant should submit statement of shipments to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to this Commission for further attention and the entry of a supplemental order if such be necessary.

ORDER.

This case being at issue upon complaint and amended answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and conclusions contained in the opinion preceding this order, which opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund unto complainant, Anaheim Sugar Company, on the shipments involved in this proceeding, moved during period August 26, 1920, to August 30, 1920, inclusive, all charges it may have collected in excess of 3 cents per 100 pounds, minimum carload weight 60,000 pounds.

Dated at San Francisco, California, this thirty-first day of July, 1925.

DECISION No. 15241.

IN THE MATTER OF THE APPLICATION OF EUCLID AVENUE WATER COMPANY FOR PERMISSION TO INCREASE ITS WATER RATES.

Application No. 11039.

Decided July 31, 1925.

RATES—WATER UTILITY.—Rates estimated to produce a net return of 3.5 per cent over the cost of operation, maintenance and depreciation, established.

Theodore F. Taylor, for Applicant.

SEAVEY, *Commissioner*.

OPINION.

This is an application for authority to increase rates, filed by Euclid Avenue Water Company, a public utility engaged in the business of

CALIFORNIA RAILROAD COMMISSION DECISIONS.

of supplying water for irrigation and domestic purposes to consumers in a certain portion of Pasadena and San Marino, Los Angeles County. The application alleges in effect that the present rates are higher than those in most of the surrounding towns and do not produce sufficient revenue to cover the cost of operation and yield a reasonable return on the capital invested. The application requests that the following rate schedule be authorized:

Irrigation Service.

100 cubic feet----- \$0 05

Domestic Service.

100 cubic feet or less-----	1 25
Next 2,000 cubic feet, per 100 cubic feet-----	12
Excess of 2,000 cubic feet, per 100 cubic feet-----	05

A public hearing in this matter was held in Pasadena, after all interested parties had been duly notified and given an opportunity to appear and be heard.

The rates now in effect were established by this Commission in Decision No. 12260, dated June 25, 1923, and are as follows:

Irrigation Service.

1 cubic inch per hour, which is equivalent to 36 cubic feet----- \$0 015

Domestic Service.

Basic charge for 800 cubic feet or less-----	1 25
800 cubic feet to 2,000 cubic feet, per 100 cubic feet-----	08
Excess of 2,000 cubic feet, per 100 cubic feet-----	0425

At the hearing, applicant presented the company's annual report to the Commission for 1924, which set out the investment in physical property to be \$34,730.44, the operating expenses \$5,479.05 and the revenues \$6,078.74.

The report was submitted by F. H. Van Hoesen, one of the Commission's hydraulic engineers, based upon the findings of the Commission Decision No. 12260, including the estimated cost of additions and investments to capital to the first day of June, 1925. This report shows the estimated original cost of the system as of June 1, 1925, to be \$30,038, the depreciation annuity is given as \$674, and the sum of both is estimated as the reasonable maintenance and operating expenses for the immediate future.

The evidence indicates that the amount submitted by applicant for operating expense includes several items not properly chargeable to operating expense, which were excluded by Mr. Van Hoesen in his report.

Consideration of the evidence presented shows, that the operation for the year 1924 resulted in this company's earning \$425 over and above the estimated reasonable maintenance and operating expense.

and depreciation charges. This is equivalent to a return of approximately 1.3 per cent upon the estimated original cost of the investment. The present rate schedule of this company is somewhat lower than average rates obtaining on many public utility systems operating in same general locality. Applicant testified that a full return upon investment was not desired at this time. The schedule of rates which the Commission was requested to authorize, will produce a return estimated to be about 3.5 per cent upon the investment over and above the cost of operation, maintenance and depreciation. The request of applicant therefore appears reasonable and the schedule of rates as proposed will be established.

The following form of order is submitted:

ORDER.

Euclid Avenue Water Company having applied to the Railroad Commission for authority to increase the rates charged for water supplied to consumers in a portion of Pasadena and San Marino, Los Angeles County, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully advised in the matter;

It is hereby found as a fact that the rates now charged by Euclid Avenue Water Company are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for the service rendered.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Euclid Avenue Water Company be and it is hereby directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for all water delivered to consumers subsequent to August 1, 1925.

Irrigation Service.

Per 100 cubic feet..... \$

Domestic Service.

Monthly meter quantity rates—

600 cubic feet or less.....
 From 600 to 2,600 cubic feet, per 100 cubic feet.....
 All in excess of 2,600 cubic feet, per 100 cubic feet

It is hereby further ordered, that Euclid Avenue Water Company be and it is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern the use of the water supplied by the company.

tions with its consumers, such rules and regulations to become effective upon their acceptance by this Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of July, 1925.

Decision No. 15242.

THE MATTER OF THE APPLICATION OF THE PALM GARDEN WATER COMPANY TO ABANDON AND SURRENDER ITS FRANCHISE.

Application No. 11221.

Decided July 31, 1925.

ABANDONMENT—WATER UTILITY—SERVICE.—Hortense M. Johnson authorized to discontinue public utility water service in the Palm Garden tract, Los Angeles County.

C. Noleman, for Applicant.

THE COMMISSION.

OPINION.

Hortense M. Johnson, under the fictitious name of the Palm Garden Water Company, owns and operates a small public utility water system heretofore used to supply water for domestic purposes to consumers in small subdivision known as the Palm Garden tract, near Linwood, Los Angeles County.

The application alleges in effect that in the early part of 1924 the Palm Garden tract was annexed to the town of Linwood, and that immediately thereafter the town of Linwood proceeded to install and did install water mains and pipe lines throughout the entire tract; that all residents have discontinued service from applicant's water supply and are now obtaining water from the municipal system of Linwood. The Commission therefore is requested to authorize the applicant to continue water service and be relieved of all further public utility liabilities.

A public hearing in this matter was held before Examiner Williams in Los Angeles after due notice thereof had been given so that all interested parties might appear and be heard.

The evidence indicates that the territory served by this applicant was recently annexed to the town of Linwood, which has extended its municipal water system throughout the tract heretofore served by applicant. The consumers formerly served by the Palm Garden Water Company

are now receiving their water from the town of Linwood. No one appeared at the hearing to oppose the granting of the application and the Commission is therefore of the opinion that the application should be granted.

ORDER.

Hortense M. Johnson, operating under the fictitious name of the Palm Garden Water Company, having made application to the Railroad Commission for permission to discontinue the service of water to the Palm Garden tract of Linwood, Los Angeles County, a public hearing having been held thereon, the matter having been duly submitted and the Commission being now fully advised thereon;

It is hereby ordered that Hortense M. Johnson be and she is hereby authorized to discontinue on the thirty-first day of August, 1925, the service of water to all her consumers located in the Palm Garden tract of Los Angeles County, and thereafter be relieved from all public utility obligations and liabilities in connection therewith, upon the following conditions and not otherwise:

1. That within ten (10) days from the date of this order Hortense M. Johnson shall notify, in writing, each of the consumers, if any, now being served by her with water, of her intention to discontinue the operation of the Palm Garden Water Company on August 31, 1925.

2. That Hortense M. Johnson shall file with this Commission within twenty (20) days from the date of this order, an affidavit setting forth the fact that each of her consumers, if any, now receiving water from the Palm Garden Water Company, was duly notified of the intention to discontinue the operation of said water company on August 31, 1925, provided, however, that in the event there are no consumers, said Hortense M. Johnson shall file a certified statement to that effect.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this thirty-first day of July 1925.

DECISION No. 15249.

IN THE MATTER OF THE APPLICATION OF THE PASADENA ELECTRIC EXPRESS COMPANY FOR AN ORDER AUTHORIZING THE CREATION OF BONDED INDEBTEDNESS AND THE ISSUE AND SALE OF BONDS.

Application No. 11407.

Decided August 3, 1925.

SECURITIES—BONDS—To ISSUE.—Application granted.

Hugh Gordon, for Applicant.

55—36855

CALIFORNIA RAILROAD COMMISSION DECISIONS.

THE COMMISSION.

OPINION.

In this application Pasadena Electric Express Company asks permission to create a bonded indebtedness and to issue and sell \$80,000 per cent bonds, due July 1, 1939, for the purpose of paying indebtedness and of financing the cost of improvements and betterments.

Pasadena Electric Express Company was organized during June, 1919, with an authorized capital stock of \$75,000, divided into 750 shares of the par value of \$100 each, all common, of which \$35,600 is outstanding. The company has no bonds outstanding at present, no reports outstanding, notes payable and other current liabilities \$73,728.48.

As of December 31, 1924, its assets and liabilities appear as follows:

<i>Assets.</i>	
Property and equipment	\$112,810 96
Investment in affiliated companies	700 00
Current assets	3,313 58
Paid expenses	282 21
Amount on stock	2,062 50
Total assets	\$119,169 25

<i>Liabilities.</i>	
Capital stock	\$35,600 00
Notes and notes payable	71,250 00
Accounts payable	11,261 97
Other current liabilities	20 13
Provision for depreciation	4,679 92
Corporate surplus-debit balance	*3,642 77
Total liabilities	\$119,169 25

The \$700 reported as investment in affiliated companies represents entire outstanding stock of Central Warehouse and Storage Company, a corporation operating under lease agreement certain warehouse properties belonging to applicant located at 447 Commercial street, Los Angeles. These properties consist of a new four-story fireproof building "A" concrete building, 40 x 125 feet in dimension, with 20,000 square feet of floor space, together with other facilities incidental to the business of a warehouseman. The building is located on land, also owned by applicant, fronting a distance of 100 feet on Commercial street and extending back to Aliso street.

The lease between the two companies, which is dated May 1, 1924, runs for a period of five years, provides for the payment to applicant by the lessor, as rental, of all the net earnings received from the operation of the warehouse, such payments being made monthly. The warehouse business was started about May 1, 1924, and for the first five months of operation, gross revenues amounted to \$21,478.87 and operating expenses to \$14,246.53, leaving net revenue payable to

applicant of \$7,232.34. The warehousing is of a general nature but consists chiefly of the storage of flour.

Applicant reports outstanding a 7 per cent note due October 11, 1933, for \$48,500 in favor of Mortgage Guarantee Company of Los Angeles, secured by a first trust deed on the properties and buildings referred to herein, and a 7 per cent note due October 11, 1925, for \$14,750 in favor of Hammond Lumber Company, secured by a second trust deed on the same properties. These amounts represent the balances due on notes aggregating \$70,000 issued under authority granted by Decision No. 12620, dated September 17, 1923, to pay for the properties and the buildings. In addition, the company has outstanding \$7,000 of short-term 7 per cent notes in favor of Pasadena National Bank.

The company now desires to pay its outstanding notes, which aggregate \$70,250, and to install, at an estimated cost of \$7,750, certain improvements in, and additions to, its warehouse equipment, consisting of a conveyor system, elevators, a garage and hand trucks.

To obtain a portion of the moneys necessary to pay its indebtedness and to finance the cost of the improvements and additions, applicant proposes, subject to receiving permission from the Commission, to issue and sell \$80,000 of bonds. These bonds will be secured by a first lien on the Commercial street property, will be dated July 1, 1925, bear interest at 7 per cent per annum, mature July 1, 1939, and be callable at 105 on any interest payment date.

The company reports that it has made arrangements to sell its bonds at 90 per cent of their face value plus accrued interest, to Southwest Bond Company.

A copy of applicant's proposed mortgage has been filed but the same is not in proper form, in that reference is made therein to a ten-year bond, and to sinking fund payments sufficient to redeem the bonds on or before July 1, 1938, though they do not mature until July 1, 1939. Applicant should submit a revised copy of its proposed mortgage to conform with its application.

ORDER.

Pasadena Electric Express Company having applied to the Railroad Commission for an order authorizing the creation of a bonded indebtedness and the issue and sale of bonds, a public hearing having been held before Examiner Williams and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such bonds is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Pasadena Electric Express Company be and it hereby is authorized to issue and sell at not less than 90 per cent of face value plus accrued interest, \$80,000 of 7 per cent bonds due July 1, 1939, for the purpose of paying the outstanding indebtedness and of financing in part, the cost of the improvements and additions to which reference has been made in the opinion preceding this order.

The authority herein granted is subject to the following conditions:

1. Pasadena Electric Express Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue bonds will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, nor until it has filed with the Commission in satisfactory form a copy of the mortgage securing the payment of the bonds, and the Commission by supplemental order has authorized the execution of such mortgage.

3. Under the authority herein granted, no bonds may be issued and sold after December 31, 1925.

Dated at San Francisco, California, this third day of August, 1925.

DECISION No. 15250.

IN THE MATTER OF THE APPLICATION OF G. F. MARTIN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR TRUCK SERVICE BETWEEN LAKEPORT, BIG VALLEY AND SCOTTS VALLEY IN LAKE COUNTY, AND HOPLAND AND UKIAH IN MENDOCINO COUNTY; ALSO, BETWEEN LAKEPORT AND VICINITY TO OTHER POINTS IN CALIFORNIA NOT TOUCHED BY ANY SERVICE NOW OPERATING OUT OF LAKE COUNTY.

Application No. 11452.

Decided August 3, 1925.

CERTIFICATE—AUTO STAGES.—Application granted.

W. H. Hazell, for Applicant.

Chas. A. Beck, for West Coast Transit Company, *H. G. Crawford*, *E. E. McPherson* and *Chas. Kuppinger*, Protestants.

G. H. Baker, for *Claude E. Doty*, Protestant.

BY THE COMMISSION.

OPINION.

G. F. Martin has petitioned the Railroad Commission, in accordance with his amended application, for an order declaring that public convenience and necessity require the operation by him of an automobile

truck line as a common carrier of fruit, boxes, shooks, wrapping paper and nails between Lakeport, Big Valley and Scotts Valley in Lake County on the one hand, and Hopland and Ukiah in Mendocino County on the other hand.

A public hearing on this application was conducted by Examiner Satterwhite at Lakeport, the matter was duly submitted and is now ready for decision.

Applicant proposes to charge rates and to operate on a time schedule in accordance with amended exhibits "A" and "B" attached to said application and to use the equipment described in Exhibit "C" attached thereto.

Charles Kuppinger, Rutherford & McMahan, E. E. McPherson, H. G. Crawford and Claude E. Doty protested the granting of said application.

Applicant called several witnesses in support of his application, among whom were representatives of the largest fruit packing companies in Lake County who own and conduct extensive packing sheds in Big Valley, Scotts Valley and adjacent farming territory.

The evidence of applicant indicates that during the season of 1924 about seven thousand tons of fruit were shipped out of Lake County and that practically all of this tonnage was shipped from Big Valley and Scotts Valley and adjacent territory. It was shown that this very large tonnage must be moved within a period of about six to eight weeks, from about July 15th to September 15th, and that it must be carried on auto trucks to the railroad shipping points at Hopland and Ukiah. The trucks are loaded and operated throughout the entire twenty-four hours of each day, it being impossible to maintain a time schedule, as the fruit must be moved rapidly to the railroad points where it is immediately packed in refrigerator cars for shipment. It appears that the trucks are kept constantly in operation and upon being unloaded at the rail points are returned at once to the packing sheds to carry another load and that the trips made within a period of twenty-four hours by individual trucks vary from three to five trips. On the long haul, the trucks carry box shooks, box nails, packing material and other packing-house supplies, which are used in packing the green fruit for shipment.

There is no definite testimony in the record as to how many trucks were used during the last fruit season or how many will be needed to carry out the fruit tonnage for the season of 1925. Witnesses for applicant estimated that there was a large fleet of trucks in operation during the season of 1924, consisting of about 50 or more, and that these trucks were owned or operated both by authorized carriers and by so-called outside truck owners holding no certificates from this Commission.

representative of the Pioneer Fruit Company, one of the largest packing companies operating in Big Valley and Scotts Valley, called as a witness by the applicant and testified to the effect that proposed additional service of applicant was necessary to transport uately and satisfactorily the large tonnage of fruit moving out of Valley and Scotts Valley during the fruit season. Applicant also ed testimony to the effect that the authorized carriers were unable uately and efficiently to handle the large shipments of fruit which to be moved rapidly within a period of two months during the season.

Charles Kuppinger, protestant, operates an authorized freight ce between Hopland and Lakeport and between Upper Lake and h together with the right to carry freight between Upper Lake and or's pear sheds and intermediate points and also the right to carry ht between Hopland and C. B. Williams' packing shed and inter- ate points.

Rutherford & McMahan, protestants, operate an authorized service the transportation of fruit and packing-house supplies between land and Big Valley and Scotts Valley.

E. McPherson, protestant, operates an authorized truck service the transportation of green fruit and packing-house supplies een fruit-packing sheds, Scotts Valley and Big Valley, and in the ity of Upper Lake, Lakeport and Kelseyville on the one hand, and land and Ukiah on the other hand, which service is given only ng the fruit packing season. Testimony offered by these prnts, shows that Charles Kuppinger owns and operates eight trucks; E. E. McPherson owns four trucks; that Rutherford & McMahan three trucks; and that each and all of said protestants are able to , if necessary, as many trucks as they now own and a larger ber, if necessary. All protestants offered testimony to the effect there was no public necessity for the additional truck service pro- d by said applicant, but in view of the evidence on behalf of appli- , particularly that of the representative of the Pioneer Fruit Com- , we are of the opinion and hereby find as a fact that the additional ice as herein proposed by applicant, is required in connection with limited seasonal crop movement herein referred to and described. fter a careful consideration of all the evidence in this case, we are he opinion and hereby find as a fact that public convenience and ssity require the operation of the proposed service of applicant and his application should be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and being now ready for decision,

The Railroad Commission of the State of California hereby decides that public convenience and necessity require the operation by Martin of an automobile truck line as a common carrier of fruit, baskets, shooks, wrapping paper and nails between Lakeport, Big Valley, Scotts Valley in Lake County on the one hand, and Hopland and Ukiah in Mendocino County on the other hand, provided that said service be given only during the fruit packing season, or approximately July 15th to September 15th of each year, and

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate hereby granted within a period of not to exceed ten (10) days from the date hereof; shall file, in duplicate, tariff of rates and time schedule within a period of not to exceed twenty (20) days from date hereof; such tariff of rates and time schedules to be identical with the tariff attached to the application herein; and shall commence operation of said service within a period of not to exceed thirty (30) days from the date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all purposes, other than hereinabove stated, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this third day of August, 19

DECISION No. 15255.

IN THE MATTER OF THE APPLICATION OF L. A. MISENER, PETE FIELD, LUKE WINFIELD, W. F. ELY, COPARTNERS, OPERATING UNDER THE FICTITIOUS NAME OF MISENER MOTOR DRAYAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH AUTOMOBILE FREIGHT SERVICE FOR THE TRANSPORTATION OF FRUITS AND VEGETABLES.

BETWEEN OAKLAND, WINTERS, BRENTWOOD, SANTA CRUZ,
MONTEREY, PALO ALTO AND ALL INTERMEDIATE POINTS.

Application No. 11149.

Decided August 4, 1925.

CERTIFICATE—AUTO STAGES.—Application granted.

R. Solinsky, for Applicants.

N. Bradshaw, for Southern Pacific Company, Protestant.

G. Lickteig, for American Railway Express Company, Protestant.

John S. Best, for Bekins Van Lines, Inc.

THE COMMISSION.

OPINION.

L. A. Misener, Pete Winfield, Luke Winfield and W. F. Ely, copartners operating under the fictitious name of Misener Motor Drayage Company, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile truck line as a common carrier of apples between Santa Cruz, Soquel, Aptos and Watsonville, including two miles radius from each point on the one hand and Oakland, California, on the other hand during the fruit season only of each year and for the transportation of vegetables between Carmel, Monterey and Castroville, including two miles radius from each point on the one hand, and Oakland on the other hand, during the fruit season of each year and for the transportation of vegetables and fruits between Alviso, Mayfield, Menlo Park, Atherton, Redwood City and Belmont, including two-mile radius from each point on the one hand and Oakland on the other hand, all said foregoing service to be a part of and an extension to the existing operating rights now owned and operated by said applicants under Decision No. 9398 on Application No. 6730, and also for the transportation of vegetables and fruits between Winters, Vacaville, Fairfield and Cordelia, including two-mile radius of each point on the one hand, and Oakland on the other hand, and for the transportation of fruits and vegetables between Brentwood, Knightson, Oakley, Antioch and Concord, including two-mile radius of each point on the one hand, and Oakland on the other hand, during the fruit and vegetable season only each year.

A public hearing on this application was conducted by Examineratterwhite at San Francisco, the matter was duly submitted and is now ready for decision.

Applicants propose to charge rates and to operate on a time schedule in accordance with Exhibits "A" and "B," attached to said application and to use the equipment described in Exhibit "C" attached hereto.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

The Southern Pacific Company, the American Railway Express Company and the Bekins Van Lines, Inc., protested the granting of said application.

The testimony of applicants shows that during the years of 1923 and 1924 they transported fruits and vegetables for all the wholesale commission houses in Oakland from all the various points and farming territory now sought to be served in their said application. The hauling has been done by virtue of contracts entered into with all of these commission houses.

It appears that the extension of service now sought by applicants has been heretofore carried on under and by virtue of the provisions of the so-called Crittenden bill and in response to a demand by the wholesale commission houses of Oakland for direct and rapid transportation of vegetables and fruits from the farming territory now proposed to be served. The testimony shows that it is important that these fruits and vegetables be shipped to the markets at Oakland with the least possible delay and that the auto truck service of applicants affords an excellent transportation service which embraces the gathering of the crops from the various ranches in the territory served where the buyers representing the various commission houses have previously contracted for the crops and have to depend upon a truck service for direct and store-door delivery. It was shown that the vegetables and fruits are loaded upon the trucks in the early and late afternoon and transported during the night time, arriving at Oakland in the early morning of the morning.

The American Railway Express Company offered in evidence its present time schedules as now in effect in the territory proposed to be served by applicants and also offered evidence as to the character and quality of service rendered between the farming district sought to be served and Oakland.

After careful consideration of the evidence, we are of the opinion that the application should be granted.

ORDER.

A public hearing having been held in the above entitled application, the matter having been duly submitted and being now ready for decision:

The Railroad Commission of the State of California hereby decides that public convenience and necessity require the operation by Louis Misener, Pete Winfield, Luke Winfield and W. F. Ely, as copartners, operating under the fictitious name of Misener Motor Drayage Company, of an automobile truck line as a common carrier of agricultural products between Santa Cruz, Soquel, Aptos and Watsonville, including a route

f two miles from each point on the one hand and Oakland, California, on the other hand, during the fruit season only of each year and for the transportation of vegetables between Carmel, Monterey and Castroville, including two miles radius from each point on the one hand, and Oakland on the other hand during the fruit season of each year and for the transportation of vegetables and fruits between Alviso, Mayfield, Menlo Park, Atherton, Redwood City and Belmont, including two miles radius from each point on the one hand and Oakland on the other hand, all of said service to be a part of and as an extension to the existing operative rights now owned and operated by said applicants, under Decision No. 9398 on Application No. 6780; and

It is hereby ordered, that a certificate of public convenience and necessity for the foregoing truck service be and the same is hereby granted not as a separate and distinct service, but as supplemental, and in addition to applicants' present freight operative rights under said Decision No. 9398, and subject to the following conditions:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, tariff of rates and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariff of rates and time schedules to be identical with those attached to the application herein; and shall commence operation of said service within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes, other than hereinabove stated, the effective date of this order shall be twenty (20) days from the date hereof.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by L. A. Misener, Pete Winfield, Luke Winfield and W. F. Ely, copartners operating under the fictitious name of Misener Motor Drayage Company, of an auto truck line for the transportation of vegetables and fruits between Winters, Vacaville, Fairfield and Cordelia, including two miles radius from each point on the one hand, and Oakland on the other hand, and for the transportation of fruits and vegetables between Knightson, Oakley, Antioch and Concord, including two miles radius from each point on the one hand and Oakland on the other hand, during the fruit and vegetable season only of each year; and

It is hereby ordered, that a certificate of public convenience and necessity for the foregoing truck service be and the same is hereby granted, subject to the following conditions:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, tariff of rates and time schedule within a period of not to exceed twenty (20) days from date hereof; such tariff of rates and time schedules to be identical with those attached to the application herein; and shall commence operation of said service within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes, other than hereinabove stated, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this fourth day of August, 1925.

DECISION No. 15257.

IN THE MATTER OF THE APPLICATION OF GENERAL CHEMICAL COMPANY, A CORPORATION, FOR AN ORDER APPROVING THE ORDER OF THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA, GRANTING A RENEWAL OF WHARF FRANCHISE ON THE SOUTHERN SHORE OF SUIJSUN BAY IN TOWNSHIP No. 1, SUPERVISOR DISTRICT No. 3, IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

Application No. 11469.

Decided August 4, 1925.

FRANCHISE—PRIVATE WHARF.—Franchise approved in so far as approval of the Commission is necessary.

BY THE COMMISSION.

ORDER APPROVING WHARF FRANCHISE.

General Chemical Company, a corporation, by this application prays an order of this Commission approving the action of the board of supervisors of Contra Costa County in granting to it, for the term of twenty years, a renewal of a wharf franchise, together with the privilege of collecting tolls for the use thereof, on the southern shore of Suisun Bay in Township No. 1, Supervisor District No. 3, in the county of Contra Costa, State of California.

From the allegations of the application it appears that General Chemical Company is a corporation organized under the laws of the State of New York; that on August 7, 1905, the board of supervisors of Contra Costa County granted to one W. C. Peyton, his heirs and assigns, the right to erect, construct and maintain a wharf, and to collect tolls for the use of the same for a term of twenty (20) years, on those submerged, overflowed and tidelands belonging to the State of California, bordering on the southern shore of Suisun Bay, a navigable arm of the sea situated in Township No. 1, Supervisor District No. 1 (now Supervisor District No. 3) in said county of Contra Costa; and that in September, 1919, said wharf franchise, and all of the rights and privileges granted thereunder, passed into the ownership of the General Chemical Company, which ever since has been, and now is, the owner and user of said wharf and said wharf franchise.

It is represented by the General Chemical Company that since the acquisition by it of this franchise the wharf in question has been used exclusively for its own private purposes, and that tolls for the use of said wharf have not been, and will not be, collected by it from the public.

In so far as any approval of this Commission may be necessary, under the provisions of section 2906 *et seq.* of the Political Code, of the right to erect, construct and maintain a wharf exclusively for private purposes, without the collection of any tolls for the use thereof by others, such approval is hereby granted.

The Commission desires to point out, however, that the use of said wharf by the public and the collection of tolls for such use would result in General Chemical Company transacting a public utility, *i. e.* a public utility, business in this state. Such a result would be in direct conflict with the express provisions of section 26 of the Public Utilities Act, and no approval of this Commission can be, nor is, given to that portion of this franchise which purports to authorize General Chemical Company to collect tolls for the use of said wharf.

Dated at San Francisco, California, this fourth day of August, 1925.

DECISION No. 15261.

THE MATTER OF THE APPLICATION OF WM. H. THOMPSON FOR
PERMISSION TO GIVE TELEPHONE SERVICE.

Application No. 10149.

Decided August 4, 1925.

CERTIFICATE—TELEPHONE UTILITY—RATES.—Wm. H. Thompson authorized to render telephone service, under rates fixed in the present order in two zones within the territory surrounding Arroyo Grande, outside the exchange area of Pacific Telephone and Telegraph Company.

BY THE COMMISSION.

OPINION.

In this proceeding Wm. H. Thompson requests the Railroad Commission to make an order authorizing him to give telephone service outside of the Arroyo Grande exchange of The Pacific Telephone and Telegraph Company and within certain boundaries as shown on an exhibit filed at the hearing, and to charge and collect such rates for telephone service as this Commission may find to be reasonable.

A hearing in this matter was held on November 6, 1924, before former Commissioner Martin.

Applicant is at the present time, and has for a long time in the past been furnishing telephone service to some 170 subscribers in the territory immediately surrounding the town of Arroyo Grande.

Applicant furnishes service to his subscribers over telephone lines owned and maintained by him. These lines, in general, terminate at the primary rate area boundary of the Arroyo Grande exchange, where they connect with lines of the Pacific Company and by means of the latter lines are connected to the Arroyo Grande central office. Applicant does not operate a central office switchboard. The necessary interconnections or switching of calls, except those between subscribers on a particular line, are performed for him by the Pacific Company. For this switching, applicant pays the Pacific Company a charge based upon the number of stations and lines so connected. At the present time the subscribers of applicant are paying from \$1.85 to \$2.25 per month for business telephone service and from \$1.75 to \$2.50 per month for residence service depending upon the location of the service.

In this proceeding, applicant requests this Commission to define the territory within which he may render and furnish telephone service and to fix rates such that he may receive sufficient revenues to pay operating expenses and earn a reasonable return upon his investment.

Mr. F. M. Casal, assistant engineer of the Commission's engineering department, made an inventory and appraisal of applicant's properties and finds that the reproduction cost of these properties amounts to \$9,486. The details of this value are shown in the following table:

Valuation of Telephone Properties of W. H. Thompson as of April 1, 1925.
Reproduction Cost.

Account 231.	Station apparatus -----	\$2,132
Account 232.	Station installations -----	358
Account 241.	Exchange pole lines -----	3,223
Account 243.	Exchange aerial wire -----	3,373
	Material and supplies -----	100
Total -----		\$9,486

From an investigation of applicant's operation, Mr. Casal finds that under the existing conditions the annual revenues under present rates amount to \$3,274 and the annual expenses to \$3,401.

The Pacific Telephone and Telegraph Company, which operates the phone exchange in the town of Arroyo Grande, and which furnishes phone service within that town, has apparently never made any real effort to furnish service outside of its Arroyo Grande primary rate area other than connecting to the lines of applicant and to other farmer lines except in the case of two suburban lines extending beyond the primary rate area. The farmer-line stations, other than those of the lines of applicant to which the Pacific Company connect, total some thirty-three stations, twenty-five of which are located along the Arroyo Grande-Verde highway and eight to the immediate south of Arroyo Grande.

At the present time, applicant's subscribers are situated throughout the area immediately surrounding Arroyo Grande having a radius of approximately four miles, also in the Tar Spring Canyon and Huasna Valley for a distance of twelve miles to the southeast of Arroyo Grande, the Arroyo Grande Valley as far east as Musick and in the Lopez Canyon for a distance of twelve miles to the northeast.

The lines operated by applicant are, in general, of very good construction and these lines have been maintained during the past in good condition and are in good condition at the present time. Service furnished by Mr. Thompson, has been adequate and has been furnished him whenever application has been made.

At the present time the Pacific Company receives from the moneys paid by applicant's subscribers, an amount of \$7.20 per year for a business service station and \$3.60 for a residence service station but in some cases an amount less than \$18 per line per year.

The evidence in this proceeding shows that during the past, applicant has adequately served the territory within which he is now operating and that he is financially able to continue such service. There appears to be no reason why applicant should not be allowed to operate as a public utility within that area surrounding the Pacific Company's Arroyo Grande primary rate area with the exception of that territory now served by the Pacific Company along the Arroyo Grande-Verde highway.

Applicant proposes to divide his territory into two zones for the purpose of applying rates for service. Zone 1—the inner zone—according to this proposal, will include that territory outside of the Pacific Company's Arroyo Grande primary rate area and, in general, within a radius of four and one-half miles from Arroyo Grande.

Zone 2 will include that territory outside of Zone 1. The division of this territory into these two zones appears to be a proper procedure. The zones are shown in a map in Exhibit "B" attached to the order allowing.

It is apparent that applicant is entitled to some increase in rates over those which he is now charging and it appears that the rates hereinafter authorized will give him the revenue to which he is entitled.

Applicant has a number of subscribers who own their telephone instruments. The rates herein authorized provide that applicant shall own, install, and maintain all equipment including instruments. The rates also provide a reduction of \$3 per year to those subscribers taking service as of September 1, 1925, and who may own their telephone instruments.

Applicant may have a demand for individual line business service and the order following will provide a rate for this service of seventy-five cents (75¢) per month for each primary station plus a mileage charge of fifty cents (50¢) for each one-quarter mile of air-line distance between the subscriber's premises and the nearest point on the Arroyo Grande primary rate area and the Pacific Company's switching rate, which amounts to \$1.50 per line per month.

ORDER.

Wm. H. Thompson, applicant in this proceeding, having requested this Commission to make its order authorizing him to give telephone service outside of the Arroyo Grande Exchange of The Pacific Telephone and Telegraph Company and within the boundaries as set forth in his Exhibit "No. 1," and to charge and collect such rates for service as this Commission may find to be reasonable, a hearing having been held, the matter having been submitted and now ready for decision, the Railroad Commission of the State of California hereby declares that public convenience and necessity require Wm. H. Thompson to furnish telephone service within the territory surrounding Arroyo Grande as shown in Exhibit "B" attached hereto.

The Railroad Commission finds as a fact that Wm. H. Thompson should render and furnish telephone service under rates and charges as set forth in Exhibit "A" attached hereto and within the territory surrounding Arroyo Grande as set forth in Exhibit "B" attached hereto.

Basing its order on the foregoing findings of fact and upon other findings contained in opinion preceding this order;

It is hereby ordered, that Wm. H. Thompson shall:

(1) Charge and collect the rates for local exchange telephone service as set forth in Exhibit "A" attached hereto for service furnished on and after September 1, 1925.

(2) Shall file with this Commission, rates and charges as set forth in Exhibit "A" attached hereto, together with a map showing the area to be served as shown in Exhibit "B" attached hereto, on or before August 25, 1925.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

3) Shall file, on or before August 25, 1925, rules and regulations governing the furnishing of telephone service subject to approval of this Commission.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourth day of August, 1925.

EXHIBIT "A."

RATES FOR EXCHANGE SERVICE.

Exchange Service—Schedule No. A-1.

Urban Service.

Applicable to flat rate suburban party line exchange service of not more than ten parties per circuit throughout Zones 1 and 2.

e:

a) Station rate—

	Rate per month per station			
	Business service		Residence service	
	Wall set	Desk set	Wall set	Desk set
One 1 -----	\$2 00	\$2 25	\$1 75	\$2 00
One 2 -----	2 25	2 50	2 00	2 25

Rate for hand-microphone set is the above wall set rate, plus fifty cents per month.

b) Switching rate—

This rate is The Pacific Telephone and Telegraph Company's switching rate in effect in its Arroyo Grande Exchange.

Conditions.

- 1) The total charge will be the sum of the charges determined upon above rates and (b).
- 2) The subscriber will be allowed a discount of ten per cent (10%) on the station under the above rate (a) if the bill for service is paid in advance for one year ending the first month of the year.
- 3) A reduction of \$3 per year will be allowed subscribers existing as of September 1925, who own and maintain their telephone instruments.

Exchange Service—Schedule No. A-2.

General Service.

Applicable to Individual Line Business service within Zone 1.

e.

a) Station rate—

	Rate per month per station	
	Wall set	Desk set
Individual line business service-----	\$0 75	\$1 00
Extension station on same premises as primary station----	75	1 00

b) Switching rate—

This rate is The Pacific Telephone and Telegraph Company's switching charge in effect in its Arroyo Grande Exchange.

c) Mileage rate—

Fifty cents for each quarter mile or fraction thereof per month per line.

Conditions.

- 1) The total charge will be the sum of the charges determined under the above rates (a), (b) and (c).
- 2) The mileage charge in the above rate (c) is based on the air-line distance from the subscribers' primary station to the nearest point in the primary rate area boundary of the Arroyo Grande exchange.
- 3) The subscriber will be allowed a discount of ten per cent (10%) on the station under (a) above if bill is paid for one year in advance during the first month of the year.

EXHIBIT "B."

MAP OF EXCHANGE AREA.



56—36855

DECISION No. 15263.

N THE MATTER OF THE APPLICATION OF CITIZENS DOMESTIC
WATER COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 11424.

Decided August 6, 1925.

SECURITIES—STOCK—To ISSUE.—Application granted.

Walter S. Clayson, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding, as amended at the hearing held before Examiner Williams, the Railroad Commission is asked to make an order authorizing Citizens Domestic Water Company to issue its common capital stock, in an amount to be determined by the Commission, in payment for properties.

Citizens Domestic Water Company was organized on or about December 16, 1924, with an authorized capital stock of \$200,000, divided into 1000 shares of the par value of \$100 each, all common, of which five shares have heretofore been issued. The properties the company now owns and operates, and which are involved in this proceeding, were installed, beginning in 1919, by W. J. Hole, apparently as an adjunct to a real estate development in what is known as Rancho La Sierra, near the city of Riverside. During 1924, the rancho, which comprises some ten thousand acres of land, was purchased by W. M. Cook and J. E. Babb and their associates, who are proceeding to improve and subdivide it. Along with the rancho, the water system was transferred. The purchasers, in turn, caused the organization of the applicant in this proceeding for the purpose of operating the water system as a public utility.

By Decision No. 14770, dated April 10, 1925, in Application No. 10618, the Commission authorized the transfer of the water system to applicant and the execution of an agreement providing for the payment by applicant of \$15,000. The opinion in the decision recites that

The transfer of the properties to the Citizens Domestic Water Company at this time will be for a nominal consideration. Later it is the intention of the company to file an application with the Commission for permission to issue stock in payment for the properties.

The present application is filed to complete the transaction and to obtain permission to issue stock to finance the balance of the cost of the properties. In this connection there was placed in evidence in this proceeding a copy of a valuation, dated March 23, 1925, prepared by J. H. Sanborn, a consulting irrigation engineer of Riverside. Summary figures of his valuation are as follows:

Item	Reproduction cost new	Depreciation	Present value
Preliminary expense -----	\$1,300 00	-----	\$1,300 00
Real estate and rights of way -----	1,000 00	-----	1,000 00
Well -----	985 45	\$98 55	886 90
Pumping plant -----	4,486 80	1,121 70	3,365 10
Pipe line to reservoir -----	5,205 00	2,082 00	3,123 00
Reservoir -----	3,578 67	357 87	3,220 80
Distribution lines -----	61,259 07	16,461 51	44,797 56
Meters -----	2,964 00	-----	2,964 00
Engineering and supervision -----	6,058 42	1,544 90	4,513 52
General administrative -----	8,000 00	2,040 00	5,960 00
Totals -----	\$94,837 41	\$23,706 53	\$71,130 88

Since the date of the valuation the company reports, in its Exhibits No. "3" and No. "4," that up to June 25, 1925, it has expended \$3,213.79 for additional property and that it has on hand materials and supplies which cost \$4,088.23. Adding these two figures to the valuations results in a total of \$102,139.43 as the estimated cost to construct the system, and a total of \$78,432.90 as the present value.

In addition to the foregoing elements of value, Mr. Sanborn includes in his valuation an allowance of \$52,590 as the value of developed water. He reports that during 1919, when making a test of the well which is now the company's source of supply, he measured a flow of 52.59 miner's inches. Considering the location of the well, the quality of the water and the low pumping lift, he estimated the value of the water at \$1,000 an inch.

We do not believe that the showing made in this matter warrants the using of the alleged value of water as a basis for an order authorizing the issue of stock. In the order following this opinion the amount of stock which Citizens Domestic Water Company is authorized to issue, is based on the estimated present value, plus additions and betterments and materials and supplies. It appears that of the \$15,000 indebtedness authorized by Decision No. 14770, \$9,000 is outstanding. Deducting the \$9,000 from the \$78,432.29, leaves a total of \$69,432.90. The order herein will authorize the issue of \$70,000 of stock.

ORDER.

Citizens Domestic Water Company, having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of \$70,000 of stock is reasonably required by applicant;

It is hereby ordered, that Citizens Domestic Water Company be and it hereby is authorized to issue not exceeding \$70,000 of its common capital stock in part payment for the properties to which reference is made in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. The amount of stock which applicant is herein authorized to issue shall not be urged before this Commission or other public body having jurisdiction as a measure of value of said properties for any purpose other than the transfer herein authorized.

2. Applicant shall keep such record of the issue and delivery of the stock herein authorized as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective upon the date hereof, but under such authority, no stock may be issued after December 31, 1925.

Dated at San Francisco, California, this sixth day of August, 1925.

DECISION No. 15266.

CALIFORNIA PACKING CORPORATION, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION; THE ATCHISON TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION; NORTHWESTERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 1864.

HUNT BROTHERS PACKING COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1866.

ROSENBERG BROTHERS AND COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION; NORTHWESTERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 1868.

LIBBY, McNEILL AND LIBBY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1869.

RICHMOND-CHASE COMPANY, A CORPORATION; THE SHAW FAMILY, INCORPORATED, A CORPORATION; BISCOGLIA BROTHERS, A CO-PARTNERSHIP; HERBERT PACKING COMPANY, INCORPORATED, A CORPORATION; CALIFORNIA CO-OPERATIVE CANNERIES, INCORPORATED, A CORPORATION; PRATT, LOW PRESERVING COMPANY, A CORPORATION; J. C. AINSLEY PACKING COMPANY, A

CORPORATION; HERSCHEL CALIFORNIA FRUIT PRODUCTS COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION,

Case No. 1885.

MAX SCHUKL, DOING BUSINESS UNDER THE NAME AND STYLE OF SCHUKL AND COMPANY,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1888.

A. A. WILSON, AS TRUSTEE IN BANKRUPTCY OF JOHN W. MCCARTHY, JR., AND COMPANY, A CORPORATION.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1892.

SUN-MAID RAISIN GROWERS, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION; THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 1896.

H. G. PRINCE AND COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1905.

WESTERN CANNING COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION; THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 1906.

PACIFIC COAST CANNING COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION; WESTERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 1907.

GOLDEN STATE CANNERIES

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1949.

Decided August 6, 1925.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

ES—STEAM RAILROAD.—Adjustment of charges for transportation of empty fruit and vegetable containers made subject to a minimum charge of \$8 per car, to cover adjustments on less than carloads, not provided for in original order.

THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Upon further consideration of the record in the above entitled proceedings and of the petition filed by the complainants on July 22, 1925, a supplemental order; and it appearing

That the opinion and order entered herein bearing date November 1923, as amended by the further opinion and order herein, dated December 31, 1924, authorizes and directs the defendants to pay as reparation unto complainants, amounts with interest equal to the difference between the charges paid for the transportation of returned empty carriers, carloads, and the charges that would have accrued on the basis of the Class E rates in effect at the time the movements took place, subject to a minimum charge of \$8 per car; and it further appearing

That certain of the shipments of empty carriers, carloads, presented to the Commission in the claims informally filed by the complainants, set forth in the Commission's opinion of November 21, 1923, consisted of empty carriers shipped out for return paying load, the traffic and transportation conditions attending the transportation of such shipments are substantially the same as the traffic and transportation conditions attending the transportation of shipments of returned empty carriers, and that such shipments are entitled to the same rates as shipments of returned empty carriers, and good cause appearing;

It is hereby ordered, that the opinion and order in these proceedings, entered November 21, 1923, as amended by the opinion and order dated December 31, 1924, be and they are hereby amended so as to authorize and direct the defendants, according as they participated in the transportation, to pay as reparation unto complainants amounts with interest equal to the difference between the charges paid for the transportation of empty carriers, carloads, including returned empty carriers and empty carriers shipped out for return-paying load, and the charges that would have accrued on the basis of the Class E rates in effect at the time the movements took place, subject to a minimum charge of \$8 per car;

It is hereby further ordered, that in all other respects the said opinion and order of November 21, 1923, as amended by the said opinion and order of December 31, 1924, shall remain in full force and effect.

Dated at San Francisco, California, this sixth day of August, 1925.

DECISION No. 15272.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES RAILWAY CORPORATION FOR A CERTIFICATE AUTHORIZING BUS SERVICE ON SOUTH PARK AVENUE AND MANCHESTER AVENUE, COUNTY OF LOS ANGELES.

Application No. 11434.

IN THE MATTER OF THE APPLICATION OF D. B. MAURICE AND FRANK ATKINSON, COPARTNERS, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER BUS SERVICE BETWEEN INTERSECTION OF MONETA AND MANCHESTER AVENUES AND MAIN AND ONE HUNDRED TWENTIETH STREET, IN LOS ANGELES COUNTY.

Application No. 11499.

Decided August 10, 1925.

CERTIFICATES—BUS SERVICE.—Application of D. B. Maurice and Frank Atkinson granted; application of Los Angeles Railway Corporation denied.

H. G. Weeks, for Los Angeles Railway Corporation, Applicant in Application No. 11434 and Protestant in Application No. 11499.

H. W. Kidd, for Applicants in Application No. 11499 and Protestants in Application No. 11434.

O. A. Smith, for Pacific Electric Railway Company, Protestant in Application No. 11499.

W. W. Praul, for B. R. Fraser.

J. O. Marsh, for Board of Public Utilities, City of Los Angeles.

Jess B. Stevens, City Attorney, by *Milton Bryan*, Deputy City Attorney, for City of Los Angeles.

BY THE COMMISSION.

OPINION.

Los Angeles Railway Corporation, by its amended application No. 11434, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of a temporary motor bus service for the carriage of passengers over and along the following route:

Commencing at the intersection of Moneta avenue and Manchester avenue in the city of Los Angeles; thence easterly along Manchester avenue to Wall street; thence continuing easterly along Manchester avenue partly within the city of Los Angeles and partly within the county of Los Angeles, unincorporated, (the southerly boundary line of said city being in the middle of Manchester avenue), to South Park avenue; thence southerly along South Park avenue to 113th street.

and for authority, if and when San Pedro street is paved between Manchester avenue and 114th street, to discontinue service over the proposed temporary route and to establish in lieu thereof motor bus service for the carriage of passengers over the following route:

Commencing at the intersection of Moneta avenue and Manchester avenue in the city of Los Angeles; thence easterly along Manchester avenue to Wall street;

hence continuing easterly along Manchester avenue partly within the city of Los Angeles and partly within the county of Los Angeles, unincorporated (the southerly boundary line of said city being in the middle of Manchester avenue), to San Pedro street; thence southerly along San Pedro street to 114th street.

D. B. Maurice and Frank Atkinson, copartners, in their Application No. 11499, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile bus line as a carrier of passengers between the intersection of Moneta and Manchester avenues and the intersection of Main and 120th streets, in Los Angeles County, serving all intermediate street intersections on the following route:

Commencing at the intersection of Moneta avenue and Manchester avenue, thence east to Main street, thence south on Main street to 120th street, thence east on 20th street to South Park avenue, thence north on South Park avenue to Manchester avenue, thence west on Manchester avenue to Moneta avenue.

Public hearings on the above applications were conducted by Examiner Handford at Los Angeles, at which time the matters were consolidated for the purpose of receiving evidence and for decision, were fully submitted and are now ready for decision.

In Application No. 11434, as amended, Los Angeles Railway Corporation proposes to charge a one-way fare of five cents; to operate from approximately 5.30 a.m. until 11 p.m. on a fifteen-minute headway; and to use as equipment modern, street-car type, glass-enclosed motor coaches equipped with pneumatic tires, and with seating capacity of 16, 25 or 29 passengers.

In Application No. 11499, D. B. Maurice and Frank Atkinson, copartners, propose to charge a one-way fare of six cents; to operate from 5.15 a.m. to 11.45 p.m. on alternate schedules via Main street and South Park avenue, affording a schedule on a fifteen-minute headway passing any intermediate point; and to use as equipment three Reo busses each of 18-passenger capacity.

Both applicants have filed for certificates to give service to the community heretofore served by the motor bus line operated by B. R. Fraser under the authority of this Commission's Decision No. 14465 in Application No. 10453, said operation having been authorized over the same route as herein sought by applicants, Maurice and Atkinson, in Application No. 11499, and having been discontinued on July 16, 1925, without authority having been secured from this Commission.

Mr. H. G. Weeks, assistant to the general manager of Los Angeles Railway Corporation, applicant herein, testified in support of his company's application. He stated, in effect, that the application sought the temporary use of South Park avenue for the reason that San Pedro street was not, at present, suitable for motor bus operation. It appears that the paving of a portion of San Pedro street, from Manchester avenue south, is shortly to be commenced and that plans for the paving

and improvement of San Pedro street are now being considered, and that if such plans are developed, that San Pedro street would be the highway best adapted to serve the territory herein proposed in that the public residing east of San Pedro street would not be required to walk an unreasonable distance to the bus line and the public residing west of San Pedro street would be well served by the proposed bus line and by the street car line of this applicant extending south on Moneta avenue to 116th street, a distance of four blocks intervening between San Pedro street and Moneta avenue. This witness testified that the portion of the territory lying south of the tracks of the Pacific Electric Railway Company, and which formerly received service by the Fraser operations, was properly served by the Pacific Electric Railway Company or by the facilities of the Los Angeles Railway Corporation as offered by the Moneta avenue line which has its southerly terminus at 116th street. Mr. Weeks also testified in protest of the granting of Application No. 11499 on the basis that Main street, over which applicants propose to operate, is but two blocks east of the Moneta avenue line of the Los Angeles Railway and that said street railway line adequately and satisfactorily serves the traffic needs of the public now desiring transportation and who may reside adjacent to said Main street.

Witnesses engaged in business and residing in the territory proposed to be served, testified as to the transportation needs of the district and as to the inconvenience caused by the discontinuance of service formerly given by the Fraser line. These witnesses expressed the opinion that some substitute service should be provided and favored the reestablishment of a service duplicating that formerly given by the Fraser operation.

It appears from the record herein that applicants, Maurice and Atkinson, are prepared to immediately undertake the proposed service that they possess the finances necessary to equip the line and to care for the operating deficit during a development period, which latter both applicants did not anticipate would develop under proper management and attention. Applicant Maurice has had considerable experience in the operation of bus lines and has successfully operated such lines prior to the time the Commission assumed jurisdiction over such class of transportation under the provisions of chapter 213, Statutes of 1917, and continuously since up to the present time. Applicant Atkinson, although inexperienced as a bus operator, has ample funds for his share of the partnership venture and testified that it was his intention to devote practically all his time to the development of the line, the actual operating management to be cared for by his partner, Maurice, who is fully experienced and capable to successfully operate a line of this character.

The granting of the application of Maurice and Atkinson (Application No. 11499), is protested by the Pacific Electric Railway Company. Mr. O. A. Smith, passenger traffic manager of this protestant, testified that the transportation needs of the district were amply cared for by the existing rail facilities of his company, by the Moneta avenue line of the Los Angeles Railway, and by the inauguration of the motor bus line as proposed in Application No. 11434. The current time schedules and rates of this protestant were filed as exhibits.

The public heretofore served by the Fraser operation are entitled to and should receive a restoration of the service formerly given and for which public convenience and necessity were found to exist by this Commission in its declaration as contained in Decision No. 14465 on Application No. 10453 as decided January 17, 1925. No evidence has been presented in this proceeding which indicates that there is any less demand for service than existed at the time of the former decision regarding this same route, and the discontinuance of service by the former certificate holder was due to his inexperience and lack of finance to properly inaugurate the enterprise.

The application of Maurice and Atkinson more fully meets the public need for transportation in the district proposed than does that of the Los Angeles Railway Corporation. This is particularly true as regards the territory south of the Pacific Electric tracks as from an exhibit filed herein (L. A. Ry. Exhibit No. 1), it appears that there are 241 houses all of which are located more than three blocks from any existing transportation facility available for the use of the public. In addition to the above there are 357 houses which would receive service by the line proposed by applicants, Maurice and Atkinson, which are more than three blocks from any existing transportation line and which would not receive service from the proposed line of applicant, Los Angeles Railway Corporation, when the permanent operation on San Pedro street was commenced and as contemplated by such applicant.

The Commission has heretofore held in its decisions affecting service of street car lines that three blocks is not an unreasonable walk for the patrons of a street car company. The proposed bus operation herein under consideration is practically a motor bus service offered in substitution of the service that would be rendered by a street car line and the three-block rule would be properly applicable in this situation. It will be noted from the foregoing that service would be available to 598 houses under the proposal in Application No. 11499 which would not be available if Application No. 11434 were to be granted.

The limitation of territory proposed by applicant, Los Angeles Railway Corporation, over that formerly served by the Fraser operation for which a necessity was found by the Commission in its Decision No. 14465, compels a favorable consideration of the application of

Maurice and Atkinson. These applicants have produced satisfactory evidence of their financial and other ability to perform the public service for which they have herein applied, and to serve the entire territory in which a public carrier has heretofore been found by this Commission to be necessary.

ORDER.

Public hearings having been held in the above entitled proceedings, the matters having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

The Railroad Commission hereby declares that public convenience and necessity require the operation by D. B. Maurice and Frank Atkinson, copartners, of an automobile bus line as a common carrier of passengers in the city and county of Los Angeles over and upon the following described route:

Commencing at the intersection of Moneta avenue and Manchester avenue, thence east to Main street, thence south on Main street to 120th street, thence east on 120th street to South Park avenue, thence north on South Park avenue to Manchester avenue, thence west on Manchester avenue to Moneta avenue.

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to D. B. Maurice and Frank Atkinson, copartners, authorizing the operation of an automobile bus line as a common carrier of passengers in the city and county of Los Angeles over the hereinbefore described route; and subject to the following conditions:

1. Applicants herein shall file with the Railroad Commission their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, their tariff of rates and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariff of rates and time schedules to be identical with those attached to the application herein; and shall commence operation of said service within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

The Railroad Commission hereby declares that public convenience and necessity do not require the operation by Los Angeles Railway Corporation of an automobile bus line as a carrier of passengers in the

city and county of Los Angeles over the route as specifically set forth in its amended Application No. 11434.

It is hereby ordered, that Application No. 11434 be and the same hereby is denied.

For all other purposes except as hereinabove specified the effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this tenth day of August, 1925.

DECISION No. 15276.

IN THE MATTER OF THE APPLICATION OF BEVERLY GIBSON, M. B. GIBSON, GEO. H. WOODS, W. M. SANFORD, C. R. SPICKARD, AND C. J. McFALL, DOING BUSINESS UNDER THE FICTITIOUS NAME OF CALIFORNIA-NEVADA STAGES, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO PASSENGER STAGE SERVICE BETWEEN SAN FRANCISCO AND THE EAST-ERLY BOUNDARY OF CALIFORNIA EN ROUTE TO RENO, NEVADA.

Application No. 9916.

IN THE MATTER OF THE APPLICATION OF JOSEPH REITFELLER, SAM ARONSON AND H. E. BOSWELL, CARRYING ON BUSINESS UNDER THE DESIGNATION OF RENO-SACRAMENTO STAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A PASSENGER STAGE SERVICE BETWEEN SACRAMENTO, CALIFORNIA, AND THE STATE LINE DIVIDING NEVADA AND CALIFORNIA, AT A POINT BETWEEN FLORISTON AND VERDI.

Application No. 9943.

IN THE MATTER OF THE APPLICATION OF SIERRA TRANSIT COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH AN AUTOMOBILE STAGE LINE FOR THE TRANSPORTATION OF PASSENGERS AND EXPRESS BETWEEN AUBURN, CALIFORNIA, AND COLFAX, CALIFORNIA, AND INTERMEDIATE POINTS IN CONJUNCTION WITH AND AS A PART OF THE OPERATIVE RIGHTS OF SIERRA TRANSIT COMPANY, A CORPORATION, TO TRANSPORT PASSENGERS AND EXPRESS BETWEEN SACRAMENTO AND NEVADA CITY, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 9954.

Decided August 10, 1925.

CERTIFICATE—AUTO STAGES.—Application of Beverly Gibson et al. granted. Permission granted to route the aforesaid service by way of Hobart Mills pending completion of Victory Highway.

Application 9943 denied.

Application 9954 set for hearing.

Sanborn, Roehl and Smith, by *A. B. Roehl*, for California-Nevada Stages.

Ovlin and Brookman, by *Douglas Brookman, James D. Meredith, Geo. J. Raymond* and *F. L. Platt*, for Reno-Sacramento Stage Company.

Harry A. Encell and James A. Miller, for Sierra Transit Company.

Edward Stern, for American Railway Express Company, Protestant.

W. W. Mielke and C. E. Spear, for Southern Pacific Company, Protestant.

H. A. Mitchell, for San Francisco-Sacramento Railroad Company.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Sam Aronson, for Golden Eagle-Barker Stage Line.

C. R. Spickard, for Sierra Transit Company, Protestant.

SQUIRES, Commissioner.

OPINION.

The above entitled cases were consolidated and hearings were had at Sacramento, Colfax and Truckee before Examiner Satterthwaite, evidence having been taken as to all the issues involved, and upon the record thus made the Commission on May 15, 1925, duly entered its order herein (Decision No. 14938). Subsequently petitions for rehearing were filed by the applicants in Application No. 9916 and Application No. 9954 and by the protestants, Southern Pacific Company and American Railway Express Company. In these petitions the findings of the Commission were attacked on various grounds, considerable evidence was injected into the proceeding, and after hearing argument thereon, the Commission, by its order duly entered on June 18, 1925, reopened the cases for further testimony. Further hearings were held on July 21st, 22d and 23d, after which oral argument was offered by counsel and the matter was again submitted for opinion and order.

It appears that Beverly Gibson et al., applicants in Application No. 9916, and Joseph Reitfeller et al., applicants in Application No. 9954, petitioned for an order declaring that public convenience and necessity requires the operation by them of an automobile stage line as a common carrier of passengers and express between Sacramento and the eastern boundary of the state, serving as intermediate points Gold Run, A. Crystal Springs, Cisco, Emigrant Gap, Soda Springs, Summit, Donner Lake, Truckee, Hobart Mills and other points. There is substantial evidence in support of the applications, except in some minor details, one of which is as to the amount of express to be carried. Each application is accompanied by a schedule showing the plan of operation, from which it appears that the applicants in both cases desire to serve the territory between Sacramento and the state line during about three months in the summer season. The remainder of the year operation is impossible by reason of heavy snowfalls in the mountains. In other words, the service proposed is seasonal in character and is intended to accommodate the campers, hunters, fishermen and tourists who during the summer months "camp out" in the region adjacent to the Victorian highway.

The applicants in Application No. 9954, the Sierra Transit Company, a corporation, which is now engaged in operating a passenger express service between Sacramento and Nevada City, asks to enlarge its service by serving Auburn, Colfax, Bowman, Applegate and Weaverville sanitarium. This is in effect a petition to enlarge its present service. Attached to its complaint is a schedule showing the service proposed.

the Southern Pacific Company and the American Railway Express Company filed protests against granting each and all of the applications. Applicants in Application No. 9916 and Application No. 9954, tested Application No. 9943 and applicants in Application No. 9943, tested Applications Nos. 9916 and 9954.

Thus it appears that Applications Nos. 9916 and 9943 cover substantially the same route and in the hearings they appeared as rival petitioners for substantially the same franchise.

Careful consideration of the entire record in these cases on rehearing is to disclose any reason for altering the former conclusion of the Commission that public convenience and necessity will justify the establishment of an auto stage line, such as is petitioned for herein. "Public convenience and necessity," as that term is used in the statute (Auto Stage and Truck Trans. Act, Stats. 1919, p. 457), is a question of fact which must be proved by competent evidence. It can not be a product of the imagination of an applicant for a certificate, nor can it be inferred from his self-serving declarations or based on hearsay testimony. It must be established by direct evidence. The burden being on the applicant in every case to establish the existence of "public convenience and necessity," he must prove the fact affirmatively as that the Commission may ascertain from the record, free from doubt or conflict, that the proposed facility, if authorized, will meet some definite public demand. This is necessary in order that the Commission may be satisfied upon an inspection of the record that public convenience and necessity does actually exist. (*Bay Cities Transportation Co. vs. E. H. Green et al.*, 26 C. R. C. 131.)

On this point the present record contains much evidence that might be characterized as incompetent and insufficient. Through the microscope thus created, however, it is not difficult to isolate the facts which to base a finding that the region through which these applicants propose to operate a stage line will be accommodated by the establishment of such a facility.

For several years California mountain territory east of Auburn and west of Truckee has been frequented during the summer months of each year by campers, fishermen, hunters and tourists. This region is reached by the so-called Victory highway and is adjacent to the Southern Pacific Railroad line, which, after leaving Blue Canon, winds around the mountain range through about forty miles of snow-shedded open spaces to Truckee. It does not appear that the location of a rail line has had much to do with the development of this locality as a camping or "resort" place, though the record shows that many persons use it to reach the various camps. The imposing distances on the route, the majestic forests, the wild and rugged character of the region,

abounding as it does in rocky fastnesses and towering cliffs, among which there exist many lakes and streams, in conjunction with certain power development schemes now in the making, seem to have attracted the attention of people residing as far away as San Francisco, who by going there to camp, fish and hunt during several years past have gradually advertised it as a place where nature may be observed in one of her grandest and most thrilling moods.

Thus it appears that within a few years a number of camping resorts have sprung up along the Victory highway. There is one at Donner Lake, where one witness testified that 12,000 persons congregated last year. There is another at Cisco where 7000 congregated. There is another at Crystal Springs and others on a smaller scale at other places. One witness testified that 60,000 people would during the present season visit these various camps or resorts. Discounting the enthusiasm of this witness, it is fairly within the probabilities that from June to October during each year 30,000 persons, more or less, will make short visits to this territory. The record seems to clearly establish that in past years a heavy percentage of these people traveled in their own automobiles; some of the witnesses estimated this as high as 90 per cent.

The camps or "resorts" are generally located along the line of the Victory highway and are from one-quarter of a mile to six miles distant from the railroad. Visitors traveling by rail have to be transported from the railroad stations to these camping places by conveyances which are ordinarily operated by the owners of the camps. The Southern Pacific Company runs two daylight and five night trains between Sacramento and Truckee, and it is a curious fact in connection with this service that a majority of those who travel to stations adjacent to these camps patronize the night instead of the day trains.

Since it is extremely probable that this territory will continue to develop as a summer resort for vacationists, owing to its novelty and the cheapness with which accommodations can be furnished, it is difficult, in view of the facts stated, to conclude that the public would not welcome the establishment of a regular stage service. Indeed, this seems so clear to me that I seriously doubt whether the service rendered by the railroad and express company, who protest the granting of a certificate to either of the applicants, will be affected by such a finding. The record contains evidence that the railroad is about to complete improvements between Blue Canon and the State boundary which will result in double tracking its entire line from San Francisco to Truckee. With these added facilities, it will be in a position to compete for the business which is being developed through this region and from the augmented travel it is reasonable to suppose that both it and the express company will profit materially therefrom. It is my conclusion,

ore, and I so find, that there is a distinct necessity for a stage line the Victory highway through this region.

siderable evidence was given on rehearing as to the financial sibility of the applicants in Applications Nos. 9916 and 9943, taken in conjunction with that accumulated in the hearings at nento, Colfax and Truckee, lead me to the conclusion that both s of applicants are fully capable of meeting all the obligations ded by a certificate of public convenience and necessity, and that s respect there is no material difference between them. A few s ago the applicants in No. 9943 sold the Golden Eagle-Barker Line to the applicants in No. 9916 for the sum of \$117,500. The seem to have had no difficulty in financing this transaction, ll amount being paid in cash. The applicants in No. 9916 control erra Transit Company, a going stage concern, which seems to be a prosperous business. The record also shows that various bankstitutions in the Sacramento Valley, where the applicants in both have done, or are doing, business, endorse them and are willing st them in financing their stage enterprises.

same may be said of the personal qualifications of the applicants, ning which there is much testimony in the record. All of them ge men of many years experience, familiar with mountain opera- and are well qualified to conduct such an enterprise as that under eration.

my conclusion, therefore, that on the score of financial responsi- and experience the applicants in both applications, Nos. 9816 943, meet all the requirements demanded by the Commission.

he former hearings and on rehearing, counsel for the applicants plications Nos. 9916 and 9943 offered considerable evidence rela- the date of filing the respective applications of the parties, and ir briefs they discussed at length the legal effect of priority in lings. Testimony was admitted, over various objections, with t to "investigations" of the question of public convenience and ity made by the applicants, the theory being that such inquiries e way should affect the question of priority in filing. Much of vidence was hearsay and a great part of the remainder is self- g. On the whole, little or no dependence can be placed upon it. respect to this phase of the case it may be said if prior "investi- s" of the practicability of establishing stage lines is to become a or granting certificates, the applicant possessing the most power- agination must necessarily succeed in all cases involving rival

Such an applicant might, through his ancestors, begin an inves- n during the glacial period and thus be on hand promptly after lting of the ice sheet with the necessary application and automo-

biles. The record shows that the applicants in these cases, according to their own statements, began "investigating" long before either filed an application, that each group knew of the operations of the others and that both then raced to the docket of the Commission.

The applicants in No. 9916 filed their petition on March 26, 1924, and those in No. 9943 on April 4, 1924, eight days later. During several months, pending the hearing, amendments were offered to the applications, changes in schedules were made, and there was elimination and substitution of parties, but it was not until August 6, 1924, that both parties seem to have arrived at an understanding of what they wanted. Thereafter they appear to have prepared their cases for hearing. All this indicates that notwithstanding their "investigations," neither group of applicants at the time of filing, exactly knew the situation or had made the necessary financial arrangements. Counsel for the applicants in Application No. 9916 claim that by substitution of parties the applicants in Application No. 9943 are illegally before the Commission and counsel for the applicants in Application No. 9943 claim that by eliminating a part of their proposed route, the applicants in Application No. 9916 are out of court, having altered their cause of action.

After consideration of the legal phase of this controversy, I am of the opinion and so find, that the changes made in the applications do not affect the substantial rights of the parties, that the elimination of a part of a route asked for does not change the substance of a petition so as to require a new filing, that bringing in new parties or eliminating old ones has no legal effect except to require further inquiry as to the experience and financial responsibility of the new parties or an explanation of why the old parties were dropped. In other words, it is my conclusion that the applicants in Application No. 9916 were the first to file and that priority of "investigation" or changes in their petition does not legally affect this finding.

I do not believe, however, that mere priority of filing, other things being different, must or should govern the granting of a certificate in any case arising under the Auto Stage Truck and Transportation Act, but I do believe that all other things being equal the applicant first to the docket should receive the reward due to his diligence, even though in the race he is only eight days ahead of his competitor.

The point involved here arose in the case of *In re Wilcox*, decided by the Idaho Public Utilities Commission (P. U. Reports 1916C, p. 35). There, as here, Wilcox and one Jones, a rival party, applied for a certificate to construct and operate a gas plant; Jones antedated Wilcox ten days. On the question of priority the Commission said: "If all other conditions and facts surrounding the two applicants were equal, the preference should be given to the party first making application therefor."

." In this particular proceeding, however, the Commission found that Jones was not prepared financially to undertake the enterprise, that Wilcox was so prepared, and therefore the certificate was awarded to him.

In this proceeding I have already found that on the score of financial possibility and experience there is no difference between the applicants before the Commission, and therefore it seems clear that we should give effect to the eminently just principle stated by the Idaho Commission.

The application of the Sierra Transit Company (No. 9954) was ordered consolidated with Applications Nos. 9916 and 9943 over the objections of its counsel, who, during the proceedings on rehearing, made a formal motion to set aside the order. The record shows that this application has no connection with the others and that it should have been given a separate hearing on its merits. The motion should be denied and a separate hearing ordered.

After full and careful consideration of all the evidence in these proceedings, I have concluded and hereby find as a fact that applicants Beverly Gibson, N. B. Gibson, Geo. H. Woods, W. M. Sanford, G. R. Spickard and C. J. McFall, doing business under the fictitious name of California-Nevada Stages, are entitled to a certificate of public convenience and necessity to operate the passenger and express service proposed in, and in accordance with, their Application No. 9916 and their application should be granted and that Application No. 9943 should be denied.

I recommend the following form of order:

ORDER.

Public hearings having been held in the above entitled applications, all evidence having been taken on rehearing and the matters having been duly submitted, the Commission being now fully advised and basing its order on the conclusions and findings of fact as appearing in the opinion which precedes this order:

The Railroad Commission hereby declares that public convenience and necessity require the operation by Beverly Gibson, M. B. Gibson, Geo. H. Woods, W. M. Sanford, G. R. Spickard, and C. J. McFall, partners doing business under the name of California-Nevada Stages, an automobile stage line as a common carrier of passengers and express between Sacramento, California, and a point on the Victory Highway, at a point where the state line dividing the state of Nevada from the State of California intersects between the town of Floriston, California, and Verdi, Nevada, serving as intermediate points Golden, Alta, Crystal Springs, Emigrant Gap, Cisco Camp, Soda Springs

Station, Summit, Donner Lake, Truckee, Hobart Junction, Boca Junction, state line and other points east of Auburn, provided that no passenger or express service shall be rendered between Sacramento and Auburn or points intermediate between Sacramento and Auburn, and provided, further, that no express package shall be carried weighing in excess of 100 pounds, and that no authority is hereby granted for the establishment of a general express service for the carriage of any express matter on any other equipment than that to be regularly used by applicants in their regular passenger service and then only where the same can be handled without inconvenience to passengers.

It is hereby ordered, that a certificate of public convenience and necessity for the foregoing passenger and express service be and the same is hereby granted with the privilege to route stages temporarily from Truckee to said state line by way of Hobart Mills until said Victory highway is fully constructed and open for public travel, and subject to the following conditions:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from date hereof; and shall file, in duplicate, tariff of rates, fares, rules and regulations, and time schedules within a period of not to exceed thirty five (35) days from date hereof, such tariffs of rates and fares, rules and regulations, and time schedules to be identical with those attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed forty (40) days from the date hereof; unless the time for commencement of operation hereunder is hereafter extended by a supplemental order of this Commission.

2. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated, nor service discontinued unless the written consent of the Railroad Commission to such assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.

3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to and approved by this Commission.

For all other purposes, than hereinabove specified, the effective date of this order shall be twenty (20) days from the date hereof.

It is hereby ordered, that said Application No. 9943 be and the same is hereby denied.

It is hereby ordered, that the order consolidating Application No. 9954 with Applications Nos. 9916 and 9943 be and the same is hereby revoked and,

CALIFORNIA RAILROAD COMMISSION DECISIONS.

It is hereby further ordered, that Application No. 9954 be set for trial.

The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of August, 1925.

DECISION No. 15278.

STANDARD OIL COMPANY, A CORPORATION,

vs.

NORFOLK RAILWAY COMPANY, AND THE ATCHAFALAYA, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 2076.

Decided August 12, 1925.

FUEL—STEAM RAILROAD—GASOLINE.—Reparation granted of all charges collected in excess of 56½ cents per 100 pounds on shipments moving from Signa and Taft to Richmond, July 1, 1922, to March 14, 1923.

O. Banks, Felix T. Smith of Pillsbury, Madison and Sutro, for Complainant.
M. Reinhardt, for Defendants.

THE COMMISSION.

OPINION.

Complainant is a corporation existing under and by virtue of the laws of the State of California and is engaged in the business of producing, refining and marketing oils and the other products of petroleum, with its principal place of business at San Francisco.

By complaint filed December 2, 1924, it is alleged that the rates assessed by defendants for the transportation of various carloads of gasoline moving from Signa and Taft to Richmond during the period March 3, 1922, to March 14, 1923, were excessive, unjust and unreasonable to the extent they exceeded 63 cents per 100 pounds prior to July 1, 1922, and 56½ cents per 100 pounds subsequent thereto.

The statute of limitation was stayed against these claims by informal opinion under Commission File I. C. 29651, dated February 19, 1924.

A public hearing was held before Examiner Geary, May 27, 1925, at San Francisco, and the case having been duly submitted is now ready for our opinion and order.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

Complainant's shipments consisted of 12 carloads of gasoline from Signa and 67 carloads from Taft to Richmond shipped prior to July 1, 1922, and 22 carloads from Signa and 49 carloads from Taft to Richmond shipped subsequent to that date. On the shipments moving prior

to July 1, 1922, defendants maintained and applied a rate of 72 cents and on those moving subsequent thereto a rate of 65 cents.

The claimed rate of 63 cents, the basis on which complainant seeks reparation on shipments made prior to July 1, 1922, was not specifically published; it represents what the now published rate of 56½ cents would have been prior to the general 10 per cent reduction effective July 1, 1922. The 56½-cent rate sought by complainant on shipments moving subsequent to July 1, 1922, was established by defendant effective March 27, 1923.

From exhibits presented by complainant it was shown that prior to July 1, 1922, defendants concurrently maintained, from Bakersfield to Richmond, a rate on gasoline of 58 cents and subsequent to that date a rate of 52 cents. The assailed rates from Signa and Taft were based 14 cents prior to July 1, 1922 and 13 cents July 1, 1922, to March 27, 1923, higher than the rates from Bakersfield. The distance to Bakersfield from Signa is 41.5 miles and from Taft 46.2 miles. Complainant contends that these differentials of 14 cents and 13 cents were entirely out of line when viewed in the light of the existing differential over Bakersfield reflected in contemporaneously effective rates from Pentland to Stockton of 55½ cents prior to July 1, 1922, and 50 cents on and after that date.

Defendants admit that the assailed rates were unreasonable and have signified a willingness to make the reparation adjustments.

Complainant has taken the 56½-cent rate established subsequent to July 1, 1922, and by a mathematical computation, claims a reasonable rate to be applied prior to July 1, 1922, would be one which if reduced 10 per cent would be equal to 56½ cents. Unquestionably the 10 per cent reduction effective July 1, 1922, reflected at that time the average amount by which all rates should be reduced in this territory.

The establishment of the low rate of 56½ cents on March 27, 1923, on complainant's request can not be taken as an admission that the rate of 72 cents prior to July 1, 1922, was either excessive or unreasonable, and complainant's claim that a 63-cent rate would be reasonable, because such a rate if reduced by 10 per cent would result in the rate of 56½ cents established March 27, 1923, can not be accepted as a reasonable rate under the conditions existing at time of movement.

The Commission in deciding a case such as the one now before it must take into consideration two distinct periods of time, viz, the period from June 25, 1918, until July 1, 1922, and the periods extending from the latter date until the present time. During the former period the freight rate structure of carriers in this territory was influenced and governed to a large extent by economic conditions attributable to the World War. By General Order No. 28 of the Director General of Railroads, and by Ex Parte Order No. 74 of the Interstate Commerce Commission

3, I. C. C. 220), the latter followed by a similar order of this Commission (18 C. R. C. 646), freight rates were twice increased to enable carriers to meet the increased costs of practically every item that entered into the operation of railroads. But as the economic conditions of the country returned to a more normal basis and the period of inflation subsided, it became apparent that a general readjustment of freight rates should be undertaken. This fact was recognized by both the Interstate Commerce Commission and by this Commission and, following hearings held throughout the country, July 1, 1922, was set as the date when the so-called wartime rates would become unreasonable and a new schedule of freight rates, reflecting approximately a 10 per cent reduction of those rates in effect on August 26, 1920, should become effective (68, I. C. C. 676).

We have heretofore tested the reasonableness of the rates on petroleum and petroleum products from points on the Sunset Railway to Bakersfield in Case No. 1793, *Richfield Oil Company vs. Sunset Railway* (3 C. R. C. 772, 779), and in Case No. 1913, *Richfield Oil Company vs. Sunset Railway et al.*, (24 C. R. C. 729, 736), where the rates from Bakersfield to Los Angeles and from Kerto and Taft to Los Angeles, both prior to July 1, 1922, and on and after that date were in issue. In considering those cases we found that the rates in effect on and after July 1, were unreasonable, but that the rates in effect prior to that date were not unreasonable.

The Commission, in Case No. 1793, *supra*, said:

The Commission, in all cases such as this, where reparation is demanded, must determine the time when the rates involved became unreasonable and must determine when shippers were entitled and the carriers should have established the rates found to be reasonable. The evidence does not convince us that the rates prior to July 1, 1922, when the general 10 per cent reduction in freight rates took effect, were reasonable, but viewing the matter in the light of the numerous oil rate adjustments made voluntarily by the carriers, in most instances to a much lower level than a 10 per cent reduction would have accomplished, we believe that the reasonable rate effective on July 1, 1922, for petroleum crude oil from all points on the Sunset Railway to Bakersfield would be \$1 per ton.

The evidence submitted in this case does not disclose a situation different from that before the Commission in the Sunset Railway oil cases cited above, in which proceedings defendants contested the payment of any and all reparation, both prior and subsequent to July 1, 1922. In the instant case defendant carriers admit that the assailed oil rates from the same producing territory were unreasonable both before and after July 1, 1922, but that admission merely reflects defendants' present viewpoints and is not conclusive as to the reasonableness of the rates.

Upon consideration of all the facts of record, we find that the rate assessed for the transportation of gasoline from Signal and Taft to Richland was not excessive, unjust or unreasonable prior to July 1, 1922,

but that on and after that date the rate was unreasonable to the extent it exceeded the subsequently established rate of 56½ cents.

We further find that complainant made certain shipments during the period from July 1, 1922, to March 14, 1923, and paid and bore the charges thereon; that it has been damaged to the amount of the difference between the charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation on such shipments.

Complainant should submit statements to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Sunset Railway Company and The Atchison, Topeka and Santa Fe Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Standard Oil Company, all charges they may have collected in excess of 56½ cents per 100 pounds for the transportation of the shipments of gasoline involved in this proceeding moving on or after July 1, 1922, to and including March 14, 1923, from Signa and Taft to Richmond.

Dated at San Francisco, California, this twelfth day of August, 1925.

DECISION No. 15283.

IN THE MATTER OF THE APPLICATION OF SANTA PAULA WATER WORKS, A CORPORATION, FOR AUTHORITY TO ISSUE SECURITIES.

Application No. 11471.

Decided August 13, 1925.

SECURITIES—NOTES—To ISSUE.—Application granted.

Farrand and Slosson, by *Leonard B. Slosson*, for Applicant.

BY THE COMMISSION.

OPINION AND ORDER.

Santa Paula Water Works asks permission to issue \$123,200 face value of unsecured promissory notes payable on or before three years after date with interest at the rate of not exceeding 7 per cent per

m, payable not oftener than quarterly, such notes to be issued to or refund a like amount of notes now outstanding.

Decision No. 13489, dated April 30, 1924, as amended (Vol. Opinions and Orders of the Railroad Commission of California, 885), the Commission authorized Santa Paula Water Works to and sell on or before July 1, 1925, at not less than par, \$100,000 stock to pay in part outstanding indebtedness of \$106,000 expended by the cost of constructing improvements, additions and betterments to the company's properties. The testimony of C. P. Foster, applicant's secretary, shows that none of this stock has been issued.

Since the date of the Commission's Decision No. 13489, the company has incurred additional expenditures to construct extensions, additions and betterments to its properties and to pay for such extensions, additions and betterments has found it to be necessary to issue additional stock. As of May 1, 1925, it reports outstanding \$123,200 face value of stock. Of this indebtedness \$80,200 now bears interest at the rate of 7 per cent per annum, \$40,000 at the rate of $6\frac{1}{2}$ per cent and \$3,000 at the rate of 6 per cent per annum. Representatives of applicant believe the notes can be paid or refunded through the issue of notes bearing interest from 6 to $6\frac{1}{2}$ per cent per annum, payable not oftener than quarterly. Of the notes now outstanding, the issue of \$3,000 has heretofore been authorized by the Railroad Commission.

A public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property and labor to be procured or paid for by the issue of the \$123,200 of stock is reasonably required by applicant and that the expenditures thereon authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

it is hereby ordered, that the Santa Paula Water Works be and it is hereby authorized to issue at not less than par, not exceeding \$123,200 face value of notes payable at not more than three years after date and bearing interest at the rate of not exceeding 7 per cent per annum, payable not oftener than quarterly, such notes to be issued in payment or in redemption of the notes listed in schedule "A" attached to the petition in the proceeding and to be issued as of the date that the notes now outstanding mature, or are paid by the company.

it is hereby further ordered, that the authority herein granted will become effective when applicant has paid the fee prescribed by section 121 of the Public Utilities Act, which fee is \$121.

it is hereby further ordered, that Santa Paula Water Works shall keep such record of the issue of the notes and the use of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General

Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirteenth day of August 1925.

DECISION No. 15284.

IN THE MATTER OF THE APPLICATION OF PALOS VERDES WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE OF ALL OF THE INCREASED CAPITAL STOCK OF SAID PALOS VERDES WATER COMPANY.

Application No. 11478.

Decided August 13, 1925.

SECURITIES—STOCK—To ISSUE.—Application granted.

Musick, Burr and Pinney, by *Harold J. Richardson*, for Applicant.

BY THE COMMISSION.

OPINION.

Palos Verdes Water Company asks the Railroad Commission to make an order authorizing it to issue and sell at not less than par \$200,000 of its common capital stock and use the proceeds to pay the cost of constructing extensions, additions and betterments to its properties.

By Decision No. 14151, dated October 9, 1924 (Vol. 25, Opinions and Orders of the Railroad Commission of California, page 451), the Railroad Commission found that public convenience and necessity require Palos Verdes Water Company to construct a public utility water system to exercise the rights and privileges granted by Ordinance No. 113 (new series) by the board of supervisors of Los Angeles County and to operate a public utility water system in the 3200-acre tract described in such decision. By that decision, as amended, the Commission also authorized the company to issue at not less than par \$300,000 of its common capital stock to acquire and construct in part the water system to which reference has been made. All of the stock has been issued and all the proceeds except \$2,955.69 expended.

It is of record that applicant's articles of incorporation have been amended and, as amended, provide for an authorized stock issue of \$500,000. The company now asks permission to issue and sell at par additional stock in the amount of \$200,000. R. E. Brownell, general manager of Palos Verdes Water Company, testified that to complete the water system on the 3200-acre tract would require a total expenditure of about \$1,000,000. He further testified that during the next two years an expenditure of approximately \$200,000 will have to be incurred and that 90 per cent of such expenditures will be for pumping plant, reservoirs, transmission mains and distributing pipes other than service

es. Applicant's general manager, however, was unable to state initely the purposes for which the expenditures will be incurred. e development of the 3200-acre tract, and the construction of new uses thereon, will determine the location of the extensions, additions l betterments and the time when they will be constructed. Under circumstances, we believe that any proceeds obtained from the ie and sale of the stock herein authorized should be expended only er the Commission has been furnished with a detailed statement of instruction expenditures actually incurred, together with a descrip- n of the properties acquired or constructed. Upon being furnished h such statements and description, the Commission will consider the hdrawal of proceeds obtained from the sale of the stock to finance cost of the extensions, additions and betterments. The order herein l authorize the issue and sale of the stock and require the deposit the proceeds with a bank or banks until such time as the expenditure uthorized by a supplemental order or orders.

ORDER.

Palos Verdes Water Company having applied to the Railroad Com- sion for permission to issue and sell at not less than par \$200,000 its common capital stock, a public hearing having been held before aminer Fankhauser and the Railroad Commission being of the nion that the money, property or labor to be procured or paid for such issue is reasonably required by applicant and that this applica- n should be granted as herein provided; therefore, *'t is hereby ordered*, that the Palos Verdes Water Company be and s hereby authorized to issue and sell at not less than par on or before ch 1, 1926, \$200,000 of its common capital stock, provided the pro- ds from the sale of the stock be deposited with a bank and expended y for such purposes as the Railroad Commission will hereafter horize by a supplemental order or orders.

't is hereby further ordered, that the authority herein granted to ie stock will become effective upon the date hereof and that Palos rdes Water Company shall keep such record of the issue and sale of stock herein authorized and of the distribution of the proceeds as l enable it to file on or before the twenty-fifth day of each month a ified report, as required by the Railroad Commission's General der No. 24, which order, in so far as applicable, is made a part of s order.

Dated at San Francisco, California, this thirteenth day of August, 15.

DECISION No. 15290.

CITY OF OAKLAND, A MUNICIPAL CORPORATION,

vs.

KEY SYSTEM TRANSIT COMPANY, A CORPORATION.

Case No. 1989.

Decided August 13, 1925.

TRANSPORTATION—ELECTRIC RAILWAY—SERVICE.—Key System Transit Company directed to place 100 additional cars in service at the rate of 30 cars immediately and 30 cars per year, and also to apply for the necessary franchise or permits to place in operation an extensive rerouting plan. Car stops to be reduced to eight to the mile.

Leon E. Gray, City Attorney for the City of Oakland.

M. C. Chapman and Morrison, Dunne and Brobeck by *Herman H. Phleger, W. I. Brobeck* and *A. L. Whittle*, for Key System Transit Company.

William J. Locke, City Attorney, for the City of Alameda.

D. J. Hall, City Attorney, for the City of Richmond.

E. J. Sinclair, for the City of Berkeley.

G. A. Bahler and Otto H. Fischer, for Oakland Chamber of Commerce.

Geo. E. Sheldon and Carlos G. White, for Uptown Association.

James P. Koll, for the Downtown Property Owners Association.

L. C. Hall, for Rockridge Improvement Club.

Mrs. W. T. Cleverdon, for California State Housewives League.

C. P. Hibbard, for Parker Avenue Improvement Club.

J. S. Peterson, for Redwood Improvement Club.

E. H. Williams, City Attorney, for the City of San Leandro.

Dr. N. J. Clecak, for West Oakland Boosters Club.

Clinton G. Dodge, in *propria persona*.

Harrison S. Robinson, for Citizens Transportation Association.

Charles X. Newman, for Dimond Park Improvers Club.

SEAVEY, *Commissioner*.

OPINION.

Further hearing was held in the above entitled proceeding in Oakland, May 15, 1925, at which time the joint engineering committee, composed of engineers of the Commission, the complainant and the defendant, respectively, presented its final report, dealing with rerouting of street cars in the downtown district of Oakland, rapid transit, equipment and future improvements. This report was filed as Commission's Exhibit No. 9.

Requests for further hearing were made so that interested parties may have an opportunity to study the report and present additional testimony. Therefore, further hearings were held in San Francisco on May 27, 1925, and in Oakland on July 10, 1925. At this last date the matter was submitted.

In the report of the joint committee certain recommendations were made, relative to the rerouting of street cars in the downtown district. To effect a relief from congestion, particularly on Washington street

Twelfth and Thirteenth streets, at Broadway and Seventh street and East Twelfth street and First avenue, the following track connections should be constructed:

- 1) To provide a double-track loop via Thirteenth, Jefferson and eighth streets by constructing double-track on Thirteenth street from Washington to Jefferson street and on Jefferson street from Thirteenth Twelfth street;
- 2) Complete double-track gaps by construction of second track on eighth street between Broadway and Washington street, and on Webster street between Thirteenth and Fourteenth streets;
- 3) Provide a single track loop via Broadway, Eighth, Franklin and eighth streets by constructing single track on Franklin from Eighth to eighth street and on Ninth street from Franklin street to Broadway;
- 4) Construct double-track connections at the following street intersections:

Jefferson street south to Twelfth street east; Washington street south to Eighth street east; Broadway south to Eighth street west; Broadway south to Eighth street east; Webster street south to Eighth street west; Fifth avenue north to East Fourteenth street east.

- 5) Construct single-track connections at the following street intersections:

Eighth street east to Franklin street north and Ninth street west to Broadway north.

The above-described track changes are shown on the map attached to Commission's Exhibit No. 9. With these track changes the following routing of the street car lines through the business district was recommended by the engineering committee:

Telegraph avenue line to operate as at present along Broadway to Webster street.

Santa Clara line to operate as at present via Washington street, Pablo avenue and Broadway.

Richmond line to operate south on Washington street; east on Eighth street and north on Broadway.

West Berkeley to operate as at present, via Washington street, Second street, and Broadway.

College avenue line to operate south on Broadway to Eighth street; east on Eighth street to Franklin street; north on Franklin street to Twelfth street; west on Ninth street to Broadway and north on Broadway. Hayward-Elmhurst line to loop via Twelfth street, Jefferson street and Thirteenth street.

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San Jose avenue line to loop via Eighth street, Washington street and Thirteenth street.

Thirty-eighth avenue line to loop via Thirteenth street, Washington street and Eighth street.

Park boulevard and Lakeshore line to operate via Broadway and Thirteenth street in both directions.

East Sixteenth street line to loop via Thirteenth street, Jefferson street and Twelfth street.

Leona main line to operate as at present in both directions along Twelfth street.

Leona loop to operate via Thirteenth street and Jefferson street and Twelfth street.

East Eighteenth street and West Twelfth street line to operate as at present in both directions along Twelfth street.

Eighth avenue and West Sixteenth street line to operate as at present via San Pablo avenue, Broadway and Thirteenth street in both directions.

Grove-Shattuck line to operate via San Pablo avenue, Washington street and Eighth street, Broadway, and Telegraph avenue and return over the same route.

Grove-Ashby turn-backs to operate as at present via Washington street and West Eighth street.

Oakland-Grand avenue lines, consolidate these two lines via Broadway, Eighth and Webster streets.

Hollis-West Eighth street lines, consolidate these two lines via Fourteenth street, Washington street, and West Eighth street.

Piedmont avenue-Hopkins street lines, consolidate these two lines via Broadway and Twelfth street in both directions.

It appears that this rerouting would reduce turning movements of street cars at the important traffic intersections about 48 per cent and eliminate all turns at Twelfth and Washington streets, the street car movements on Washington street between Eighth and Thirteenth streets would be reduced, all street car movement would be removed from Fourteenth street between Washington street and Webster street and street car movement across the Twelfth street dam would be reduced.

Objection was raised by several business and improvement clubs to the routing of certain lines via Fifth avenue and Eighth street, setting forth that the time in transit in reaching the business district would increase. In lieu of this street car routing, it was proposed to have established a motor coach line beginning at Trever street on Foothill boulevard and thence running via Trever street, Seminary avenue, Camden street, Hopkins street, Excelsior boulevard and Grand avenue to Broadway

thence southerly along Broadway to Fourteenth street, thence easterly along Fourteenth street to Webster street and thence northerly along Webster street to Grand avenue and return to Foothill boulevard by the same route.

It was set forth that the present routing of local service does not provide a betterment of transportation to the districts north of Excelsior boulevard and Hopkins street. The proposed routing would parallel existing rail or motor coach for its entire distance, except between Thirty-fifth avenue and Seminary avenue. This territory is now touched by the Thirty-eighth avenue line and the Leona line. Further, it appears that if this motor coach service was established, that none of the existing parallel service could be discontinued, and that a dual motor coach service would exist along Excelsior boulevard, unless the Excelsior avenue-Moss avenue motor coach line was shortened to run only between Grand avenue and Broadway or discontinued altogether.

A duplicate service is not warranted along the major portion of this route and it appears that a better ultimate service would result by building a rail line along Excelsior avenue and Hopkins street between Grand avenue and Fourteenth avenue and the extension of the Hopkins street line easterly from Thirty-fifth avenue, as pointed out in Commission's Exhibit No. 1.

Numerous other suggestions for the routing of street cars in the downtown district have been suggested to relieve congestion in the downtown area. These suggestions have all been thoroughly investigated and given due consideration in connection with those submitted by the Engineering Committee and it appears that the rerouting, as suggested in Commission's Exhibit No. 9, will, without further inconveniencing the street car patron, materially assist in a reduction in congestion in the downtown area and deliver even more effectively than at present the street car patron to the whole downtown retail area of the city.

The existing arrangement of stops for the purpose of allowing patrons to board or alight are such that their average spacing is 13.7 stops per mile, whereas the engineers state that good practice indicates that there should be about eight stops per mile, equally spaced as nearly as possible. In Oakland there are some short stretches of line where the stops are in excess of the rate of 16 per mile. It is evident that by a reduction of the number of stops per mile, the speed of the cars can be increased materially and this service to the public to that extent bettered. The actual location of stops in their new position should be worked out jointly by the company and the city, and the revised time table schedules should be approved by the Commission.

The report of the engineers points out that about one hundred street cars now in use are obsolete in design and have about up to their useful lives. These cars can not be economically rebuilt and should be replaced by new and modern cars, so designed that they can be coupled into trains of two or more cars. At least thirty of these cars should be purchased immediately and that approximately twenty per year be built or purchased and put into service, until all the older equipment is replaced.

Of the newer equipment that is now in service, certain improvements should be made. The 800 class car now in operation on College street is underpowered and the present truck should be replaced. The St. Louis type car that is used on Grove street is equipped with longitudinal seats. By changing about one-half of these longitudinal seats to cross seats a more convenient car would result.

The joint engineering committee stated that the most satisfactory method of giving a more rapid service between the business centers of Berkeley and Oakland would be by the use of the Shattuck avenue line. The reduction of stops to eight per mile between the business center of Oakland, and Forty-third street and to six stops per mile between Forty-third street and the business district of Berkeley would reduce the running time to not greater than twenty minutes. In order to give over this line to a more rapid through service, the best type of car should be substituted for the obsolete type of car now in use on this route. This recommendation appears sound and should be carried out and the company has stated that it would carry out this arrangement and that it will proceed so to do.

The arteries leading north and east from the center of Oakland are limited and for most part already occupied by street car lines. These are also so heavily used by vehicular traffic that even if motor coach service were given, enough time could not be gained over the time of the street car, particularly when the rearrangement of stops has to be effected, to make such motor coach operation a high speed service in any sense. The installation of such motor coach service, therefore, is not justified at this time.

In the event that it is impossible to work out a satisfactory rapid speed service on the Shattuck avenue rail line between Oakland and Berkeley, it may later be advisable to establish a trial motor coach service between these two cities.

There can be no question but that as the development of Oakland continues, there must be further improvement in its transportation facilities. Upon the completion of the tube under the Oakland estuary and the removal of the Webster street bridge, there will be a new line to reroute the Santa Clara avenue line, either through the tube

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nection with the existing lines at Eighth street and Harrison street via some other route. According to the engineers, if arrangement made for the use of the tube, the Santa Clara avenue line and the Geary avenue line can be combined, making a through route between Fremont and Berkeley by way of Webster street.

It was recommended that the rail line on Fruitvale avenue should be extended north of Hopkins street to serve a territory, already well built up and still showing evidence of continued growth. This extension should be made.

The Excelsior avenue motor coach line on Hopkins street and Excelsior avenue, which was established pursuant to the first preliminary order in this proceeding, has developed such a large volume of traffic to justify the conclusion that this route should in the relatively near future be converted into a rail line, so as not only to take care of the growing population in this territory but also to increase the flexibility of the traction division by providing a means of routing cars of the Hopkins street line or Park boulevard line or both, into the business district of Oakland via Grand avenue, and thereby further relieve the traffic congestion on the Twelfth street dam.

The Oakland western waterfront is growing industrially quite rapidly and a demand for local service will probably soon be justified.

Before service is extended into this territory the grade crossing situation over the Southern Pacific main line tracks and suburban tracks should be considered, with a view to avoiding unusually hazardous grade crossings over those tracks.

Certain other future improvements were suggested by the engineering committee but which it does not appear necessary or proper for the Commission to further consider at this time.

The city of Oakland was agreeable to the recommendations made for improvement of local transportation and the company signified its willingness to carry out these recommendations. The immediate improvements in the service that have been recommended, should, therefore, be given a fair trial for a period of not less than six months but nothing in this decision should be construed as preventing the company from modifying such routing in accordance with the needs of the service after this trial period.

It is apparent that an extensive program of rerouting of street cars will become necessary in about three years, due to the construction of a tube under the Oakland estuary, the construction of rail lines along Excelsior avenue and other changes that may take place. Since rerouting and improvement of service is a continuing problem, it appears that a traffic bureau should be established as a permanent part of the company's transportation organization, provided with enough employees to make sufficient traffic checks and inspections so that records, which

were secured, after expending considerable effort and money, by the engineering committee, can be kept up to date and other studies of like nature be made. In this way, current data can always be available and later rerouting and other schedule improvements can be promptly and economically made.

The following form of order is recommended:

ORDER.

The city of Oakland, having instituted the above proceeding, asking that a survey of the street car service of the Key System Transit Company be made, that as a result of such survey, orders be made requiring the improvement of the street car service, public hearings having been held, the Commission being fully apprised of the facts, the matter being under submission and ready for decision; therefore,

It is hereby ordered, that the Key System Transit Company be and it is hereby directed to make application to the proper governing regulatory bodies for the necessary franchises, permits or certificates of public convenience and necessity as may be required by law for the construction, operation and maintenance of tracks in the city of Oakland, county of Alameda, State of California, at the following locations:

(1) A double track on Thirteenth street from Washington street to Jefferson street and on Jefferson street from Thirteenth street to Twelfth street.

(2) A second track on Eighth street between Broadway and Washington street and on Webster street between Thirteenth and Fourteenth streets.

(3) A single track on Franklin street from Eighth street to Ninth street and a single track on Ninth street from Franklin street to Broadway.

(4) Double-track curve connections at the following street connections:

- (a) Jefferson street south to Twelfth street east.
 - (b) Washington street south to Eighth street east.
 - (c) Broadway south to Eighth street west.
 - (d) Broadway south to Eighth street east.
 - (e) Webster street south to Eighth street west.
 - (f) Fifth avenue north to East Fourteenth street east.
- (5) Single-track curve connections at the following locations:
- (a) Eighth street east to Franklin street north.
 - (b) Ninth street west to Broadway north.

It is hereby further ordered, that upon being granted the necessary franchise, permits or certificates of public convenience and necessity

r the construction and operation of said street car tracks, that Key System Transit Company be and it is hereby directed to construct said tracks and track connections with all overhead and other appurtenances thereto.

It is hereby further ordered, that upon the completion of the construction of said tracks and track connections that Key System Transit Company be and it is hereby directed to route its street cars along said tracks and its existing tracks in the business section of the city of Oakland for a period of not less than six (6) months substantially in accordance with the schedule of routes shown on Exhibit "A," attached hereto and made a part hereof. Nothing in this order shall be construed as preventing said Key System Transit Company from modifying said routing, in accordance with the needs of the service after the routing herein prescribed shall have been in effect for at least six (6) months.

It is hereby further ordered, that the Key System Transit Company and it is hereby directed to rearrange the stops on its local lines for the purpose of receiving and discharging passengers so that they will be spaced as near as practicable eight (8) stops per mile, subject, however, to the following conditions:

(1) Key System Transit Company shall, within sixty (60) days from the date of this order, submit a schedule of revised stops to the Commission and to the city of Oakland for their approval.

(2) Upon the approval of said schedule of stops, stopping points shall be effectively marked, and street cars shall stop at points so marked for receiving and discharging passengers.

It is hereby further ordered, that Key System Transit Company and it is hereby ordered to immediately purchase thirty (30) new cars for its street car service, then purchase or build approximately thirty (30) per year until one hundred (100) new cars have been put into service. Said new cars shall be so designed that they may be coupled into trains of two cars.

It is hereby further ordered, that the Commission reserves the right to make such further orders relative to the route, schedules and service, as it may hereafter deem right and proper.

For all other purposes, the effective date of this order shall be twenty (20) days after the date hereof.

The foregoing opinion and order are hereby ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of August, 1925.

EXHIBIT A.

ROUTING OF STREET CARS IN THAT PORTION OF THE CITY OF OAKLAND BOUNDED BY FOURTEENTH STREET ON THE NORTH, FIFTH AVENUE ON THE EAST, EIGHTH STREET ON THE SOUTH AND JEFFERSON STREET ON THE WEST.

*Line and Route.**Telegraph avenue—*

Along Broadway in both directions between Fifteenth street and Water street.

Santa Clara avenue—

Loop from Second street and Broadway, west on Second street to Washington street, north on Washington street to San Pablo avenue, southeasterly along San Pablo avenue to Broadway, and south on Broadway to Water street.

Richmond—

Loop from Washington street and San Pablo avenue, south on Washington street to Eighth street, east on Eighth street to Broadway, north on Broadway to San Pablo avenue, and northwesterly along San Pablo avenue.

West, Berkeley—

Loop from Washington street and San Pablo avenue, south on Washington street to Second street, east on Second street to Broadway, north on Broadway to San Pablo avenue and northwesterly along San Pablo avenue.

College avenue—

South on Broadway from Fifteenth street to Eighth street, thence east on Eighth street to Franklin street, north on Franklin street to Ninth street, west on Ninth street to Broadway and north along Broadway.

Haywards-Elmhurst—

Loop from Twelfth street and Oak street, west on Twelfth street to Jefferson street, north on Jefferson street to Thirteenth street, east on Thirteenth street to Oak street, south on Oak street to Twelfth street, and east along Twelfth street.

San Jose avenue—

Loop from Fifth avenue and East Fourteenth street, south on Fifth avenue to Eighth street, west on Eighth street to Washington street, north on Washington street to Thirteenth street, east on Thirteenth street to Oak street, south on Oak street to Twelfth street and east along Twelfth street.

Thirty-eighth avenue—

Loop from Twelfth street and Oak street, north on Oak street to Thirteenth street, west on Thirteenth street to Washington street, south on Washington street to Eighth street, east on Eighth street to Fifth avenue, north on Fifth avenue to East Fourteenth street, and east along East Fourteenth street.

Park boulevard and Lakeshore avenue—

Both directions along Thirteenth street and Broadway and between Oak street and Fifteenth street.

East Sixteenth street—

Loop from Twelfth and Oak streets, north on Oak street to Thirteenth street, west on Thirteenth street to Jefferson street, south on Jefferson street to Twelfth street, east along Twelfth street.

Leona main line—

Both east and west along Twelfth street.

Leona Loop—

Loop from Oak and Twelfth streets, north on Oak street to Thirteenth street, west on Thirteenth street to Jefferson street, south on Jefferson street to Twelfth street and east along Twelfth street.

East Eighteenth street and West Twelfth street—

Both east and west along Twelfth street.

Eighth avenue and West Sixteenth street—

Both directions along Sixteenth street west of San Pablo avenue to San Pablo avenue, along San Pablo avenue to Broadway, along Broadway to Thirteenth street and along Thirteenth street east of Broadway.

Grove street-Shattuck—

Both directions along San Pablo avenue northwesterly of Washington street to Washington street, along Washington street to Eighth street, along Eighth street to Broadway, along Broadway to Telegraph avenue, and along Telegraph avenue.

Grove-Ashby Turnback—

Both directions along San Pablo avenue northwesterly of Washington street, along Washington street to Eighth street and along Eighth street west of Washington street.

Oakland avenue-Grand avenue—

Both directions along Broadway north of Eighth street, along Eighth street to Webster street and along Webster street north of Eighth street.

Hollis street-West Eighth street—

Both directions along Fourteenth street west of Washington street, along Washington street to Eighth street and along Eighth street west of Washington street.

Piedmont avenue-Hopkins street—

Both directions along Broadway north of Twelfth street and along Twelfth street east of Broadway.

Fifth avenue and East Eighth street—

Discontinue operation.

DECISION No. 15300.

J. W. BROWNING

vs.

RIVER FARMS COMPANY OF CALIFORNIA, A CORPORATION.

Case No. 2141.

Decided August 15, 1925.

RATES—STEAM RAILROAD—RECONDITIONING GRAIN.—It being stipulated the Commission had no jurisdiction, and the deposit having been delivered to defendant, subject to protest, the complaint is dismissed.

Seth Millington of Millington and Millington, for Complainant.
Hiram W. Johnson, Jr., for Defendant.

SQUIRES, Commissioner.

ORDER OF DISMISSAL.

The complaint in this proceeding, filed July 6, 1925, involves a claim in the sum of \$534.90 assessed by defendant, River Farms Company of California, to cover reconditioning charges claimed to be due against certain lots of grain stored at the Howell Point warehouse of the defendant.

A hearing was held at San Francisco, California, Thursday, August 13, 1925, at which time parties litigant agreed that the Railroad Com

mission of California has no jurisdiction to adjudicate the issue her involved. It was stipulated between the parties that a check in the sum of \$534.90 held in escrow by the Railroad Commission be delivered to defendant, subject to the protest of the complainant, and that this proceeding be dismissed without prejudice.

Now, therefore, it appearing to the Commission that this complaint should be dismissed;

It is hereby ordered, that the complaint in this proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this fifteenth day of August 1925.

DECISION No. 15303.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-RICHMOND FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK AT THE PAR VALUE OF EIGHT HUNDRED THOUSAND DOLLARS.

Application No. 5097.

Decided August 17, 1925.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas, it appears that in our Decision No. 15197, heretofore entered in the above entitled matter on the eighteenth day of July, 1925, there was omitted by inadvertence the formal recital that the opinion and order therein contained were approved and ordered filed as the opinion and order of the Railroad Commission of the State of California although such approval and order for filing were in fact made and given by a majority of this Commission; now therefore,

It is hereby ordered, that there be inserted in said Decision No. 15197 of this Commission prior to the words, "Dated at San Francisco, this eighteenth day of July, 1925," the following:

"The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California."

Dated at San Francisco, California, this seventeenth day of August 1925.

DECISION No. 15305.

IN THE MATTER OF ESTABLISHING INCREASED CLASSIFICATION RATINGS ON RADIO RECEIVING SETS AND TALKING MACHINES AND RADIO SETS COMBINED, AS SET FORTH IN THE COLUMN

CAPTIONED "WESTERN" OF CONSOLIDATED CLASSIFICATION
No. 4, C. R. C. 347, F. W. GOMPH, AGENT.

Case No. 2097.

Decided August 18, 1925.

FES—STEAM RAILROAD—RADIO SETS—RADIOS AND PHONOGRAPHS.—Application of F. W. Gomph, joint agent for California carriers, for authority to publish increased classifications on radio sets and radio sets combined with phonographs, in both carloads and less than carloads, denied as to less than carloads on both items; and granted on radios in carloads; denied as to radios and phonographs combined, in carloads.

for McCollester, J. E. Lyons, H. C. Bush, Robert W. Fyfe and E. K. Voorhes,
for Respondents.

P. Geary, for Railroad Commission of the State of California.

eph C. Colquitt, for Radio Manufacturers Association.

sic Industries Chamber of Commerce, Incorporated, and others.

E. Lambert, for Radio Corporation of America.

h Mann, for San Francisco Chamber of Commerce; and others.

W. Hollingsworth, for Oakland Chamber of Commerce, Protestants.

M. Remington, A. G. Farquharson, Heckert L. Parker, W. H. Lockwood.

F. Gittings, Jr., George A. Culbert, George J. Olsen and Frank E. Bates, for various other Protestants.

JIRES, Commissioner.

OPINION.

This case involves the propriety of the California intrastate classification ratings, both carload and less than carload, applying to radio receiving sets and talking machines and radio sets combined, as set forth on page 163, item 19, and page 414, item 8, in the column captioned "Western" of Consolidated Classification No. 4, C. R. C. 347, F. W. Gomph, agent.

By the publication of these items in the classification made to become effective February 10, 1925, there are proposed ratings of one and one-half times first class for radio receiving sets and talking machines and radio sets combined, in less carload, and second class, minimum weight 20,000 pounds, subject to rule 34, for those articles in carload. Radio receiving sets and talking machines and radio receiving sets combined have not heretofore been specifically provided for in the classification.

Upon complaint of various chambers of commerce, radio manufacturers and trade associations, this Commission suspended until August 25, 1925, the effective date of the proposed increased ratings. The Interstate Commerce Commission took similar action in connection with interstate traffic on their Investigation and Suspension Ticket No. 2336.

Joint hearings were held with the Interstate Commerce Commission at San Francisco March 4, 1925, and adjourned hearings at Washington, D. C., on April 7, 8 and 9, 1925. This Commission could not

appear at the Washington hearings, but was furnished with copies the transcripts and exhibits. The proceeding having been briefed and duly submitted is now ready for an opinion and order.

Both protestants and respondents agree that, under the classification now in effect, radio sets are ratable as electrical appliances not otherwise indexed by name, as per item 18, carried on page 164 of the classification; less carload taking first class, and carloads, minimum 30,000 pounds, third class. Respondents maintain that the present classification of electrical appliances is not applicable when the radio sets are equipped with tubes and loud speakers, for the reason that radio tubes are specifically rated in the classification at double first class less carload and first class, minimum 14,000 pounds, carload and the loud speakers one and one-half times first class less carload and second class, minimum weight 16,000 pounds carloads. They claim this contention is supported by section 3, rule 12, of the classification, which reads, in part:

The charge for a package containing freight of more than one class shall be at the rating provided for the highest classed freight contained in the package * * *.

Protestants' position is that rule 12 is not applicable and that the ratings for electrical appliances n. o. i. b. n. should apply and they make reference to the fact that organs and pianos with attachments consisting of drums, violins, etc., are given the organ and piano rating of first class, notwithstanding that the attachments included in the same package carry specific ratings higher than first class.

If radio receiving sets are electrical appliances, and it happens they are so constructed that their function depends upon tubes and loud speakers, and the latter articles are shipped with the radio receiving sets, either installed or separately packed, the separate parts then lose their identity and can not be considered as anything but an integral part of the set; therefore, in line with the practice of the carriers in the handling of such articles as pianos and their attachments we find substantial reasons for being in accord with protestants' interpretation of the existing less carload classification rating of first class for the combined radio sets.

Talking machines (phonographs) are rated first class less carload and second class, minimum weight 16,000 pounds, carloads. The less carload rating is the same as for electrical appliances not otherwise indexed by name, but the carload rating for talking machines is second class, minimum weight 16,000 pounds, and is higher than the carload rating for electrical appliances, which is third class, minimum weight 30,000 pounds. Hence, the existing ratings on talking machines and radio sets combined, with or without tubes or loud speakers, is first class in less carload, and second class, minimum weight 16,000 pounds.

carload; this under the provisions of rule 18 of the classification, which reads:

When not specifically classified, combination articles, such as a combination ironing board and step ladder, will be charged at the rating for the highest classed article of the combination.

First class less carload also applies to talking machine turn tables, talking machine record-carrying cases, talking machine cabinets and talking machine parts n. o. i. b. n. The talking machines are in competition to a greater or less extent with the radio receiving sets and with gramophone machines and radio sets combined. The combined radio sets are constructed in very much the same manner as the regular talking machines, and under the present classification are rated less carload, same as talking machines.

There was much testimony and many exhibits dealing with values per pound and the weight per cubic foot. The average value of the gramophone machine and radio set combined shipped from one of complainant's plants for a period of six months is \$10.31 per cubic foot, \$1.21 per pound, with an average of 8.54 pounds per cubic foot. Talking machines, according to the exhibits, have an average value of \$10.00 per cubic foot, 64 cents per pound, and an average weight of 8.54 pounds per cubic foot. Respondents maintain that the inclusion of a radio receiving set with a talking machine increases the value of the latter, although they admit that the articles combined do not exceed the value of the more expensive makes of talking machines. Respondents urge that the addition of the radio receiving set to the gramophone machine simply results in an added refinement to the latter and, heretofore stated, stress the fact that the ratings on organs and pianos with drums, horns or violins attached are no higher than the ratings given to organs and pianos.

An exhibit was presented listing orchestrions (automatic bands or orchestras, including player pianos, electric pianos, theater orchestras, gramophone pianos, etc.), all taking first class less carload rating.

Reference is also made to an exhibit showing articles listed under furniture groupings, first class less carload. This list includes bulky articles as sideboards, buffets, chiffonettes, music cabinets, bookcases, libraries, bureaus, couches, davenport, etc. The list might be extended, giving a vast number of analogous articles, but would add nothing to the fact, when consideration is given to the many light and bulky articles similar to radio sets taking less carload first class rates, that discrimination would be created by the granting of these proposed rates. The increase from first class to one and one-half times first class represents a fifty per cent added charge. A 100-pound shipment from San Francisco to Los Angeles would be increased from 84½ cents

to \$1.27; to Sacramento the increase would be from 34 cents to 51 cents.

Since this case was heard respondents have established, to become effective August 15, 1925, in Trans-Continental Freight Bureau Tariffs 1-X (Item 1331 of Supplement 4) and 4-U (Item 1331 of Supplement 3), westbound transcontinental less carload rates on radio receiving sets, in boxes, and loud speakers or talkers, radio or telephone, in boxes, based on the concurrently effective first class rates. This action of respondents would indicate, at least in so far as this particular traffic is concerned, that the first class less carload rating is not considered by them unreasonably low or unremunerative.

I am of the opinion and find that the proposed classification increases in the less carload rating applying to radio receiving sets and to talking machines and radio sets combined have not been justified.

The carload rating of radio sets under the present classification is third class, minimum 30,000 pounds, not subject to rule 34; on talking machines and radio sets combined the present classification is second class, minimum 16,000 pounds, subject to rule 34. The proposed classification provides second class, minimum 20,000 pounds, subject to rule 34, for both the radio sets and the talking machines and radio sets combined. This change will be a reduction in the minimum weight from 30,000 to 20,000 pounds, and an increase in the rating from third to second class for the radio sets, and for the talking machines and radio sets combined there will be an increase in the minimum weight from 16,000 to 20,000 pounds, with no change in the rating.

The evidence indicates that in so far as radio receiving sets are concerned no difficulty has been experienced in loading the cars in excess of the prescribed minimum of 20,000 pounds.

I am of the opinion, and so find, that the proposed rating for radio receiving sets, carload, of second class minimum weight 20,000 pounds, subject to rule 34, has been justified.

The exhibits and testimony with reference to talking machines and radio sets combined clearly indicate that the proposed minimum of 20,000 pounds can not be loaded into the equipment under the provisions of rule 34. Respondents do not maintain that the minimum can actually be loaded, but take the position that the proposed second class rating is reasonable only when applied in connection with a minimum of 20,000 pounds. This conclusion is untenable, for it is not proper or reasonable to publish a minimum weight impossible of loading.

Since talking machines in straight carloads are now rated second class, minimum 16,000 pounds, which classification also applies under

the present tariff to talking machines and radio sets combined, and since the testimony shows that for all practical purposes straight talking machines and talking machines and radio sets combined are analogous articles, when their use, value and packing characteristics are given consideration, they should have the same minimum weight and the same classification ratings.

I am of the opinion, and so find, that the proposed ratings on talking machines and radio sets combined, in carloads, have not been justified, and I recommended the adoption of the following form of order:

ORDER.

It appearing that by order dated February 5, 1925, the Commission entered upon a hearing concerning the lawfulness of the rates, charges, regulations, and practices stated in the schedules enumerated and described in said order, and suspended the operation of said schedules until June 4, 1925, and by supplemental orders until August 25, 1925;

It further appearing that a full investigation of the matters and things involved has been had, and the Commission having, on the date hereof, made and filed its opinion containing its findings of fact and the conclusions thereon, which said opinion is hereby referred to and made a part hereof:

It is hereby ordered, that the respondents herein be and they are hereby notified and required to cancel said schedules, in so far as they are not in accord with the opinion which precedes this order, on or before August 25, 1925, upon notice to this Commission and to the general public, by not less than one day's filing and posting, and that this proceeding be discontinued.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of August, 1925.

DECISION No. 15306.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA VINEYARD AND IMPROVEMENT COMPANY, A FICTITIOUS NAME, NELSON M. VAN FLEET, SOLE OWNER, FOR PERMISSION TO INCREASE RATES.

Application No. 11072.

Decided August 18, 1925.

RATES—WATER UTILITY.—Rates established that will provide a fair return based on the amount of water delivered.

W. R. Shocmaker, for Applicant.

E. C. Hodge, for Consumers.

BY THE COMMISSION.

OPINION.

Nelson M. Van Fleet, applicant in the above entitled matter, owns and operates under the fictitious name of the California Vineyard and Improvement Company, a public utility water system which serves water for domestic purposes to consumers near the town of North Cucamonga, San Bernardino County. The application alleges in effect, that the present schedule of rates does not yield a sufficient revenue to meet maintenance and operating expenses, depreciation annuity, and a fair return upon the investment; that owing to the industrial depression now existing in the territory served, the number of consumers is rapidly diminishing and that assessments have recently been materially increased on the water stock of the Cucamonga Water Company, a mutual concern, which is the sole source of water supply to applicant's system. Wherefore the Railroad Commission is asked for authority to increase the rates charged for services rendered.

A public hearing in this matter was held before Examiner William at Cucamonga, after all interested parties had been duly notified and given an opportunity to appear and be heard.

This water system was originally constructed about 1907 and was installed to supply domestic water to approximately 160 lots in North Cucamonga district. Applicant acquired title to the property from The California Vineyard and Improvement Company, a defunct corporation, under authority granted in this Commission's Decision No. 9483, dated October 3, 1921. The only source of supply at present available to this system is through the ownership by applicant of twenty shares of water stock in the Cucamonga Water Company, a mutual concern. The water is received from the mutual company through three master meters and is then distributed by applicant through his own system, which consists of about three quarters of a mile of four-inch riveted pipe and approximately one and one-half miles of two-inch pipe. This system at the present time is fully metered and serves about 170 consumers through 116 service connections.

The rates now in effect on this system were established by the Commission in Decision No. 6382, dated June 3, 1919, and are as follows:

0 to 500 cubic feet, per 100 cubic feet-----	\$0 20
500 to 1,500 cubic feet, per 100 cubic feet-----	15
Over 1,500 cubic feet, per 100 cubic feet-----	12
Monthly minimum payment -----	1 00

Applicant submitted evidence to the effect that the original cost of the property as of January 1, 1925, was \$6,689. This amount does not include any value for the twenty shares of water stock of the Cucamonga Water Company. The Commission's engineers submitted

CALIFORNIA RAILROAD COMMISSION DECISIONS.

report which showed the estimated historical cost of the physical property as of January 1, 1925, to be \$7,732. A depreciation annuity the 5 per cent sinking fund basis was found to be \$222. The value of the twenty shares of water stock of the Cucamonga Water Company established by Decision No. 6382, rendered June 3, 1919, as \$2,000 rate fixing purposes.

The applicant reports an operating expense for the year 1924 of \$374. An analysis of this amount was contained in a report of the Commission's engineers and it is evident that the applicant has included therein certain items which should have been properly charged in the expenses for the preceding year. Certain other items were also included which were not correctly chargeable to maintenance and operating accounts. The revised expenses for the year 1924 as given by the engineers of the Commission were \$2,212. It is apparent that the amount included by applicant for the salary of the manager and superintendent is excessive for the time actually required for the proper supervision and operation of the plant. A liberal and reasonable allowance for the operating and maintenance expense for the system in the immediate future is \$1,800.

The revenues received by this company for the past three years are as follows: 1922, \$2,038; 1923, \$2,435; 1924, \$2,061. Using the same annual operating expenses of \$1,800 and the depreciation annuity found by the Commission's engineers of \$222, the total costs of operation and depreciation amounting to \$2,022 reflect a net return for the year 1924 of \$39, which is less than one half of one per cent return upon the capital invested. It is apparent that applicant is entitled to an adjustment in his present schedule of rates.

Testimony introduced by certain of the protestants indicated that the utility's service at times in the past has not been satisfactory, principally by reason of the low pressure existing on the system of the Cucamonga Water Company. The pipe line furnishing water to the applicant also supplies certain irrigators. While the Cucamonga Water Company attempts to have not more than one irrigation user on the line at any one time, it frequently happens that at various times a large amount of water so used is such that the flow in the mains of the applicant's system is seriously affected. The record shows, however, that this condition is temporary and that both applicant and Cucamonga Water Company have taken measures to install improvements in the system so that within a few weeks the service conditions will be improved.

Certain lots in the area served by this utility are occupied by more than one family and although served by but a single connection the company has observed the practice of charging each family the regular

monthly minimum payment. In many instances the entire volume of water consumed by all families on a single service falls far short of the total amount of water which should be available under the combined minimum payments and has, therefore, resulted in considerable dissatisfaction among those consumers affected. The schedule of rates set out below will provide a fair return based upon the amount of water delivered. As all water is furnished through meters application will be properly reimbursed for all service rendered although more than one family may be served by the same pipe connection. It will therefore, be unnecessary to levy more than a single minimum charge for each metered service connection.

ORDER.

Nelson M. Van Fleet, sole owner of the public utility plant operated under the fictitious name of The California Vineyard and Improvement Company, having applied to the Railroad Commission for authority to increase rates for water supplied to consumers in the vicinity of North Cucamonga, San Bernardino County, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the matter.

It is hereby found as a fact that the rates now charged by Nelson M. Van Fleet, operating under the fictitious name and style of The California Vineyard and Improvement Company, are unjust and unreasonable in so far as they differ from the rates herein authorized and that the rates herein authorized are just and reasonable rates to be charged for the service rendered to consumers.

Basing the order upon the foregoing findings of fact and upon the statements of fact set forth in the preceding opinion;

It is hereby ordered, that Nelson M. Van Fleet, operating under the fictitious name and style of The California Vineyard and Improvement Company, be and he is hereby directed to file with this Commission on or before August 31, 1925, the following schedule of rates to be charged for all water delivered to consumers subsequent to that date:

Monthly Meter Rates.

From	0 to 1,000 cubic feet, per 100 cubic feet	-----	\$0 2
From	1,000 to 2,000 cubic feet, per 100 cubic feet	-----	2
Over	2,000 cubic feet, per 100 cubic feet	-----	1

Minimum Monthly Charges.

$\frac{5}{8}$ -inch meter	-----	\$1 3
$\frac{3}{4}$ -inch meter	-----	2 0
1-inch meter	-----	3 0
1 $\frac{1}{2}$ -inch meter	-----	5 0
2-inch meter	-----	7 5

Each of the foregoing minimum monthly charges will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the "monthly meter rates."

It is hereby further ordered, that said Nelson M. Van Fleet shall with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing service to its contents, said rules and regulations to become effective upon their acceptance for filing by the Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this eighteenth day of August, 1925.

DECISION No. 15307.

THE MATTER OF THE APPLICATION OF THE STAR AND CRESCENT BOAT COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR LAUNCHES FOR THE TRANSPORTATION OF FREIGHT FOR COMPENSATION BETWEEN POINTS UPON THE INLAND WATERS OF THE STATE OF CALIFORNIA.

Application No. 11270.

Decided August 18, 1925.

CERTIFICATE—CARRIER BY WATER.—Application granted.

By E. Jenney, for Applicant.

THE COMMISSION.

OPINION.

The Star and Crescent Boat Company, a corporation, with its principal place of business at San Diego, California, applies under the provisions of paragraph (d), section 50, of the Public Utilities Act for a certificate of public convenience and necessity authorizing the operation by it of vessels for the transportation of freight of all kinds between any wharf or point on the shores of San Diego Bay and the vessels in San Diego Bay; also between vessels when at anchor in the

A public hearing was held at San Diego July 23, 1925, before Examiner Geary and the matter having been duly submitted is now ready for a decision.

The freight rates and charges proposed by applicant are 20 cents per 100 pounds on shipments of more than 4000 pounds and 25 cents per 100 pounds on shipments of 4000 pounds or less, subject to a minimum charge of 50 cents.

By Decision No. 14876, May 1, 1925, in Application No. 10976, the record of which by stipulation was made a part of this proceeding, the Commission granted applicant a certificate of public convenience and necessity to operate motor launches for the transportation of freight, for compensation, between points upon the bay of San Diego.

At the hearing in Application No. 10976 a motion was made to amend the application for the purpose of securing a certificate authorizing the transportation of property for compensation, but since under the provisions of paragraph (d), section 50, of the Public Utilities Act, a certificate can not be issued for the operation of any vessels between points exclusively on the inland waters of this state without a formal application and, after a public hearing, it became necessary for applicant to file this new and separate application. The testimony indicates that the service proposed is largely in the nature of a convenience to the shipping interests, that the freight available is very limited and that no regular schedules can be maintained. The service to be given will be in response to calls and is practically a continuation of that rendered for many years past by applicant's predecessor and is being furnished simply as an accommodation in connection with the passenger service authorized by our decision in Application No. 10976, *supra*.

The equipment to be employed consists of five launches and four barges. The launches have a capacity varying from 8 to 14 tons and the barges a combined capacity of 320 tons.

The history of the corporation and its financial ability are discussed in our Decision No. 14876, hence it will be unnecessary to here again deal with those phases of the situation.

Upon consideration of the record in this proceeding we are of the opinion and find as a fact that public convenience and necessity require the establishment of service by vessels for the transportation of property, for compensation, on the bay of San Diego, as set forth in the application, and that a certificate should be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, the case having been submitted and now being ready for a decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by the Star and Crescent Boat Company, a corporation, of vessels for the transportation of freight, for compensation, between any wharf or point on the shores of San Diego Bay and vessels in the bay of San Diego, and also between vessels anchored in the bay of San Diego.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted subject to the following condition:

That applicant shall file tariff, within twenty (20) days from the date hereof, published according to the rules of this Commission, setting forth the rates, rules and regulations governing the transportation

f property, which shall be those set forth in Exhibit "B", attached to the application and made a part thereof.

Dated at San Francisco, California, this eighteenth day of August, 1925.

DECISION No. 15308.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA TRACTION COMPANY, A CORPORATION, FOR PERMISSION TO RECONSTRUCT A SINGLE LINE OF STANDARD GAUGE RAILROAD TRACK ALONG, OVER AND ACROSS THE STOCKTON BOULEVARD, RUNNING PARTLY THROUGH THE COUNTY OF SACRAMENTO, AND OVER, ACROSS AND ALONG CERTAIN STREETS AND HIGHWAYS AND ALSO OVER AND ACROSS CERTAIN TRACKS OF THE PACIFIC GAS AND ELECTRIC COMPANY.

Application No. 11466.

Decided August 18, 1925.

RAILROAD CROSSINGS—ELECTRIC RAILWAY.—Application granted. Expense of installing crossing over public streets and alleys assessed to applicant. Expense of constructing crossing over tracks of Pacific Gas and Electric Company's line of electric railway in the vicinity of Fourth avenue and Stockton boulevard, Sacramento, assessed equally to both railway companies; cost of maintaining same assessed to applicant.

Attorneys, Van Dyke and Desmond, by J. W. S. Butler and E. J. Foulds, for Applicant. L. Shinn, City Attorney, H. C. Bottorff, City Manager, and A. J. Wagner, City Engineer, for the city of Sacramento.

W. DuVal, for the Pacific Gas and Electric Company.

C. McLeod, for the California Highway Commission.

BY THE COMMISSION.

OPINION.

This is an application filed under section 43 of the Public Utilities Act on July 22, 1925, by the Central California Traction Company for permission to relocate a single line of standard gauge railroad track across certain streets and highways and for permission to construct said track across certain tracks of the Pacific Gas and Electric Company. said street crossings are partly in the city of Sacramento and partly in the county of Sacramento as follows:

Crossings within the city of Sacramento are: Portion of Second avenue; portion of Stockton boulevard; Catala way; Third avenue; unnamed street; Fourth avenue; Fifth avenue; Sixth avenue; seventh avenue; alley between Seventh and Eighth avenues; Eighth avenue; alley between and opposite Eighth and Ninth avenues; Ninth avenue; Tenth avenue; Eleventh avenue; Twelfth avenue; thirteenth avenue; Fourteenth avenue.

Crossings in unincorporated portion of Sacramento County; Elliott avenue; unnamed street opposite Elliott avenue; Claire avenue; Hillside avenue; San Francisco boulevard; Yosemite avenue;

unnamed alley opposite Yosemite avenue; Parker avenue; Roosevelt avenue; portion of Stockton boulevard.

The carrier states in the application that it makes application unwillingly and as a result of the desire of the State Highway Commission and the city of Sacramento to pave and improve Stockton boulevard, the main highway between Stockton and Sacramento. Paving of this road has been held up for two years, and it is in a very poor condition.

A public hearing was held at Sacramento before Examiner Austin on Friday, July 31, 1925.

At the present time the track of the Central California Traction Company turns from Second avenue on the west side of Stockton boulevard across Stockton boulevard and a portion of Second avenue and runs south parallel to Stockton boulevard and on the inside of the curb line to a point opposite Fourth avenue. From Fourth avenue to Fourteenth avenue it lies just outside the curb line. It crosses the following streets:

In the city of Sacramento: Stockton boulevard; portion of Second avenue; Catala way; unnamed street opposite and between Third and Fourth avenues; Fifth avenues; alley opposite and between Eighth and Ninth avenues; Ninth avenue; Tenth avenue; Eleventh avenue; Twelfth avenue; Thirteenth avenue; Fourteenth avenue.

Outside city of Sacramento: Unnamed street opposite Elliott avenue; unnamed alley opposite Yosemite avenue; San Francisco boulevard.

It is proposed to move the track from its present location to the center line of Stockton boulevard from a point near Fifth avenue south to the curve beginning at Roosevelt avenue. From Second avenue to Fifth avenue the track is to be located eleven and one-half feet east of the center line of Stockton boulevard. There are two main issues to be considered: First, the effect of this relocation of track upon the hazard at the several crossings now existing and the additional hazards caused by traffic crossing the track from new crossings to be constructed; and second, the apportionment of cost of so relocating the track at the several crossings.

The traffic from Third avenue, Fourth avenue, Sixth avenue, Seventh avenue, the alley between Seventh and Eighth avenues, Eighth avenue, Twelfth avenue, Claire avenue, Yosemite avenue, Parker avenue and Roosevelt avenue does not cross the existing track of the Traction Company but turns into Stockton boulevard and moves thereon for some distance after which a portion may cross to diverting streets. Such of this traffic as is northbound must of necessity have to cross the track in the location proposed along or near the center line

of Stockton boulevard. Additional hazard will, therefore, be introduced at the last mentioned streets.

Under present conditions all traffic on Catala way, the unnamed street opposite Third avenue, the alley opposite to and between Eighth and Ninth avenues, Twelfth avenue and Thirteenth avenue east of Stockton boulevard and the alley opposite Yosemite avenue, must cross the existing track. If this track is moved to the center of Stockton boulevard, westbound traffic on these streets turning north into Stockton boulevard and northbound traffic on Stockton boulevard turning into these streets will not be required to cross the tracks. Existing hazards will be abolished to this extent and may be considered to offset the hazards created by the new traffic lane crossings inaugurated for streets entering Stockton boulevard from the west.

The location of the existing track close to the property line of the street is more hazardous, in our opinion, to traffic using all of the streets entering Stockton boulevard from the east than the proposed location would be for the reason that trees, structures or any other obstructions which are now or which may be located along the property line of these intersections obstruct or would obstruct the view of the track much more seriously as the track now exists than would be the case if it were located along the center of the street; for, in the latter case, almost one-half of the open street must be crossed before reaching the track. Such street crossing as Fourteenth avenue and Ninth avenue, which extend both east and west from Stockton boulevard, will be benefited by such relocation for the same reason and to the same extent.

At Second avenue both north and south traffic on Stockton boulevard now cross the existing track. Under proposed conditions only the southbound traffic on the boulevard will cross the track. Near Roosevelt avenue traffic on Stockton boulevard does not cross the track, as now located, but under the conditions proposed, northbound traffic will cross the track. It would appear that these two conditions also tend to offset each other. At Second avenue, under the proposed scheme, it appears that there would not be sufficient room for an automobile to pass from Second avenue south on Stockton boulevard between the proposed curb line and a car of the Traction Company. This would create a hazardous condition and should be remedied by increasing the distance around the curve from curb line to center of track to at least twelve feet by the acquisition of a portion of the land adjoining this corner.

After a careful consideration of all of the evidence concerning these crossings it appears to the Commission that the locations proposed for the track at these crossings is less hazardous in toto than the locations at the crossings now existing.

The relocation of the track from Second avenue to Fourth avenue, as proposed in this proceeding, requires that the double track street car line of the Pacific Gas and Electric Company be crossed at its curve into Fourth avenue. The Pacific Gas and Electric Company does not desire to have the crossing installed but offers no objection thereto if the public interest requires it. That company, however, does not believe that it should pay any portion of the cost of installing or maintaining the crossing.

Between Catala way and Fourth avenue the track of the Central California Traction Company and the tracks of the Pacific Gas and Electric Company are parallel to each other and run along the front of the State Fair Grounds. The track of the Traction Company lies between the Fair Grounds and the Pacific Gas and Electric Company's double track which lies one on each side of the curb line.

The Traction Company objects to moving out into the street along this frontage as it states the hazard will be increased by having its disembarking passengers cross the Pacific Gas and Electric Company's tracks. It also objects to the hazard involved in crossing the Pacific Gas and Electric double track line at the Fourth avenue curve. However, the Pacific Gas and Electric tracks stub end near Catala way and their cars will either be at a standstill or moving very slowly in front of the Fair Grounds. The cars of the Traction Company, on the other hand, are operated on a through track and will therefore undoubtedly move at higher speeds than the Pacific Gas and Electric cars. There appears to be less hazard to disembarking passengers under the proposed conditions than under the existing conditions. The retention of the Traction Company track inside the sidewalk area from Second to Fourth avenues would also require the crossing of its track at Second avenue and at Fourth avenue by northbound traffic on Stockton boulevard. This would not occur under the proposed scheme. As to the crossing of the street car double track line, no more hazard is introduced than that which occurs at any other interurban and street car crossing in the city where all cars are required to stop before proceeding over the crossing.

After due consideration of the testimony, it appears to the Commission that the application should be granted and it will be so ordered.

There now remains for consideration the apportionment of the cost of installing the crossings. If Stockton boulevard were to be fully paved, with the track of the Traction Company in its present position, the company would undoubtedly be required to reconstruct and pave its track at its own expense across all the streets entering Stockton boulevard from the east or crossing Stockton boulevard completely. Moving the track to the center of the street will not increase the cost

if these crossings, in fact the cost should be less as these proposed crossings can be laid without the operation of trains over them. Under the proposed conditions, traffic across these street crossings will be relieved to some extent and lines of vision will be improved, as hereinbefore outlined, and conditions on the whole will be less hazardous, although certain lanes of traffic from stub streets entering Stockton boulevard from the west will cross the tracks in their new location and will, in part, offset the improvement attained on the east side of the street. On the whole, we are of the opinion that crossing conditions will be less hazardous under the proposed track change. We therefore believe that the applicant should be assessed with the cost of installing and maintaining the street crossings and it will be so ordered.

The Pacific Gas and Electric Company cites a number of the decisions of this Commission in which the applicants, in each instance, were assessed with the cost of installing crossings of other railroad tracks at grade. The Commission has always taken the position that it has no hard and fast rules in such matters and that each proceeding must be decided on its merits, in accordance with the particular conditions surrounding it. This was the position taken by the Commission in apportioning the cost of a public road crossing in Decision No. 11244 (22 C. R. C. 516), cited by counsel for Pacific Gas and Electric Company. Usually in the cases of track crossings at grade, which have come before this Commission for an apportionment of cost, applicant's chief aim in seeking such facilities has been the development of their own business. Such was the condition in each of the spur track crossing decisions cited by counsel for Pacific Gas and Electric Company. In this particular case, the crossing is incident to a general public improvement and it is entirely fair that both of the interested railroads should share in the cost, as any increased development in this district, under the proposed improvement, will benefit both of the railroads to some degree. It therefore appears reasonable that the cost of constructing and maintaining the crossing of the double track street car line of the Pacific Gas and Electric Company by the proposed track of the Central California Traction Company should be equally divided between the Pacific Gas and Electric Company and the California Traction Company.

ORDER.

Central California Traction Company, having on July 22, 1925, made application to the Commission for permission to reconstruct a single line of standard gauge railroad track along, over and across Stockton boulevard and across certain streets and highways, partly in the city of Sacramento and partly in the unincorporated portion of the county of Sacramento, and having also made application for permission to

reconstruct said railroad track across certain tracks of the Pacific Gas and Electric Company in the vicinity of Fourth avenue and Stockton boulevard in the city of Sacramento, a public hearing having been held, and the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that Central California Traction Company be and it is hereby granted permission to reconstruct a single standard gauge railroad track at grade across the following streets in the city of Sacramento, county of Sacramento, State of California:

Portion of Second avenue; portion of Stockton boulevard; Catala way; Third avenue; unnamed street; Fourth avenue; Fifth avenue; Sixth avenue; Seventh avenue; alley between Seventh and Eighth avenues; Eighth avenue; alley between and opposite Eighth and Ninth avenues; Ninth avenue; Tenth avenue; Eleventh avenue; Twelfth avenue; Thirteenth avenue; Fourteenth avenue, as shown by maps (Sheets No. 1-a, No. 2, No. 3 and No. 4), attached to the application.

It is hereby further ordered, that permission and authority be and it is hereby granted to the Central California Traction Company to reconstruct its track at grade across the following streets in the unincorporated portion of the county of Sacramento, State of California:

Elliott avenue; unnamed street opposite Elliott avenue; Claire avenue; Hillside avenue; San Francisco boulevard; Yosemite avenue; unnamed alley opposite Yosemite avenue; Parker avenue; Roosevelt avenue; portion of Stockton boulevard, and as shown by the map (Sheets No. 5 and No. 6) attached to the application.

It is hereby further ordered, that permission for the construction of all of said crossings hereinbefore authorized be and it is subject to the following conditions:

(1) The entire expense of constructing the crossings together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said streets now graded, with the tops of rails flush with the pavement, and with grades of approach not exceeding one (1) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

It is hereby further ordered, that permission be and it is hereby granted to the Central California Traction Company to construct a single line of standard gauge railroad track across the tracks of the Pacific Gas and Electric Company in the vicinity of Fourth avenue and Stockton boulevard in the city of Sacramento, county of Sacramento,

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te of California, as shown by the map (Sheet No. 1-a) attached to application, said crossing to be constructed subject to the following conditions:

1) The entire expense of constructing crossing shall be borne by applicant and Pacific Gas and Electric Company. Cost of maintenance of said crossing in good and first-class condition shall be borne by applicant.

2) All trains, motors, engines or cars of applicant and of Pacific Gas and Electric Company shall stop before going upon or over said crossing and shall not proceed thereover until it has been ascertained that it is safe so to do.

3) Applicant shall within sixty (60) days of the date of this order file with the Commission a duly executed copy or copies of agreement or agreements with said Pacific Gas and Electric Company covering the terms of installation, operation and maintenance of said crossing.

It is hereby further ordered, that all of said street crossings and all double track street car crossing are authorized subject to the following conditions:

1) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of each of all of said crossings.

2) If said crossings, or any of them, shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is ordered by subsequent order.

3) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this eighteenth day of August, 1925.

DECISION No. 15320.

THE MATTER OF THE APPLICATION OF ERIKSON NAVIGATION COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE VESSELS ON THE INLAND WATERS OF THE STATE OF CALIFORNIA TO ENCINAL TERMINALS, ALAMEDA, AND OTHER POINTS ON SAN FRANCISCO BAY.

Application No. 11324.

Decided August 18, 1925.

CERTIFICATE—CARRIER BY WATER.—Application granted.

H. H. Sanborn, for Applicant.

Benjamin Walters, for Island Transportation Company and Velmeier Transportation Company.

BY THE COMMISSION.

OPINION.

This is an application filed by the Erikson Navigation Company, a corporation, under the provisions of section 50 (d) of the Public Utilities Act for a certificate of public convenience and necessity authorizing the operation of vessels on the inland waters of the State of California between points located on the Sacramento and San Joaquin rivers and on San Francisco Bay and tributaries thereto on the one hand, and the Encinal Terminal wharves, located in the city of Alameda, on the Oakland estuary, on the other hand; also to handle freight not otherwise specified between all points on the San Francisco Bay and its tributaries, where applicant now handles only specific commodities.

The petition sets forth that applicant now has on file its Freight Tariff No. 1, C. R. C. No. 1, and supplements thereto, issued June 20, 1924, effective June 21, 1924, which tariff includes rates between Sacramento-San Joaquin River points and the San Francisco Bay points to Oakland and that it proposes to assess the same rates to the Encinal Terminals, Alameda, as now in effect to and from the city of Oakland.

The application further recites:

That there has recently been constructed and opened for operation, a large terminal known as Encinal Terminals located in the Oakland estuary, Alameda, California, and applicant has been requested to serve said terminal, and deliver freight thereto, from points covered by its tariff hereinabove in paragraph II set forth.

That applicant is informed and believes by reason of the construction of said terminals, a large amount of freight will be offered applicant for transportation thereto, which has heretofore moved to other terminals and destinations, and it is in the interest of public convenience and necessity that applicant be in a position to make deliveries of such freight to Encinal Terminals whenever desired by shippers.

A public hearing was held at San Francisco August 14th before Examiner Geary and the application having been submitted is now ready for an opinion and order.

Applicant, under the tariff now in effect, carries freight under specific commodity rates to Alameda, the principal commodities being cement, coal, coke, grain, hay, straw and lumber. The granting of this application will merely permit the carrying of all commodities to Alameda, as set forth in the tariff on file now applying only to Oakland, and will likewise permit the handling of all freight between San Francisco Bay points by the amending of item No. 19 of Tariff C. R. C. No. 1 to provide that rate of \$1.80 per ton on freight n. o. s. will also apply between San Francisco and Alviso, Redwood City, Mare Island and the intermediate points.

witness on behalf of the Vehmeyer Transportation Company and the Transportation Company withdrew opposition to the adjustment. The applicant stipulated the proposed changes would not break down present rates and that specific commodity rates would be established if necessary to maintain the rate levels.

The applicant owns and operates a fleet of vessels and secured its operating rights under Application No. 10001, Decision No. 13566, 17, 1924. These operations are a continuation of those formerly conducted by John Erikson, deceased, and the service has been rendered by this organization for a great many years past. There was opposition to the granting of the application.

We are of the opinion and find as a fact that public convenience and necessity require the establishment by this applicant of a service between the landings on the Sacramento and San Joaquin rivers and tributaries and San Francisco Bay points on the one hand, and the Encinal Terminals in the city of Alameda, located on the Oakland estuary on the other, and also between the San Francisco Bay points, set forth in the application, and that a certificate should be granted.

In issuing this authority the Commission does not authorize or change any of the operating privileges of applicant except to the extent of the service to Encinal Terminals in Alameda and between the San Francisco Bay points.

ORDER.

A public hearing having been held in the above entitled proceeding, application having been submitted and now being ready for a decision.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by the American Navigation Company, a corporation, of vessels for the transportation of property, for compensation, on the inland waters of the State of California between points located on the Sacramento and San Joaquin rivers and tributaries and points on the San Francisco Bay on the one hand, and the Encinal Terminal wharves located in the city of Alameda, on the Oakland estuary, on the other hand. Also to regulate freight, not otherwise specified, between San Francisco Bay points and Alviso, Redwood City, Mare Island and the intermediate points. The operations between the points herein authorized are all to be conducted within the territory now being served by applicant, as described in Local Freight Tariff No. 1, C. R. C. No. 1.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions:

That the applicant shall publish rates, as set forth in the application, in proper tariffs and in the manner prescribed by section 14 (a) of the Public Utilities Act.

Dated at San Francisco, California, this eighteenth day of August, 1925.

DECISION No. 15323.

IN THE MATTER OF THE APPLICATION OF GEORGE J. PANARIO, WILLIAM H. CURTIS AND P. W. DONGAN, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF SANTA ROSA, PETALUMA AND SAUSALITO AUTO STAGE COMPANY, TO TRANSFER CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO THE SANTA ROSA, PETALUMA AND SAUSALITO AUTO STAGE COMPANY, A CORPORATION, AND OF THE SANTA ROSA, PETALUMA AND SAUSALITO AUTO STAGE COMPANY, A CORPORATION, TO HAVE SAID CERTIFICATES ISSUED TO IT, AND FOR PERMISSION TO ISSUE STOCK IN PAYMENT THEREFOR.

Application No. 11401.

Decided August 20, 1925.

SECURITIES—STOCK—TO ISSUE.—Application to issue \$90,000 of common stock granted; application to issue \$60,000 additional dismissed.

Edwin V. McKenzie, Hugh K. McKevitt and Frank R. Devlin, for Applicants.

BY THE COMMISSION.

OPINION.

In this proceeding the Railroad Commission is asked to make an order authorizing George J. Panario, William H. Curtis and P. W. Dongan, copartners, doing business under the firm name and style of Santa Rosa, Petaluma and Sausalito Auto Stage Company, to transfer their certificates of public convenience and necessity and their properties to Santa Rosa, Petaluma and Sausalito Auto Stage Company, a newly organized corporation, and authorizing the corporation to issue \$150,000 of its common capital stock.

The record shows that George J. Panario, William H. Curtis and P. W. Dongan are engaged in operating auto stages for the transportation of passengers between Sausalito and Santa Rosa and intermediate points, and between Santa Rosa and Calistoga and intermediate points. The certificates of public convenience and necessity under which operations are conducted were granted the copartners in the following proceedings:

Decision	Date	Application	From whom acquired	Description of right
6831	Nov. 13, 1919	5088	C. A. Branch	Permits transportation of passengers between Santa Rosa and Sausalito and intermediate points.
11698	Feb. 20, 1923	8693	H. E. Ekstrom and L. B. Wilcox.	Permits transportation of passengers between Santa Rosa and Calistoga and intermediate points.

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The orders of the Commission do not permit the linking up or consolidating of the two rights or the establishing of through service from route to the other, and no request for such permission is contained in the present application.

The physical properties involved in the proposed transfer are reported to consist of four Pierce-Arrow 18-passenger stages, one White passenger stage, three White 20-passenger stages, two White 22-passenger stages, six White 24-passenger stages, one Hudson 7-passenger stage, one Pierce-Arrow towing car, one Cadillac service car, one Packard touring car; a total of 20 automobiles, together with materials and supplies, tools, furniture and fixtures and depot facilities. As of May 31, 1925, the copartners report the cost of their assets as follows:

Assets	\$108,592 91
Motor cars	4,855 36
Furniture	1,607 85
Depot fixtures	1,178 60
Machinery and tools	5,842 13
Modeling car	2,714 53
Bank account	6,658 83
Pipes and tubes	2,605 73
Interest	6,277 60
Accounts receivable	600 00
Accounts receivable	461 12
Form account	180 00
Franchise	2,500 00
Leasehold property (Santa Rosa)	6,255 68
Leasehold property (Petaluma)	4,071 97
Prepaid rent	2,400 00
Total	\$156,802 31

The item of \$2,500 for franchise value is said to represent the cost of acquiring the certificates now owned by the copartners. The item of \$6,255.68 for leasehold property in Santa Rosa and the one for \$4,071.97 for leasehold property in Petaluma appear to be expenditures for improvements on leased property used for depot purposes. The item of \$2,400 represents six months' rent on the Santa Rosa terminal which was paid in advance. The total of \$134,055.91 for the equipment represents actual cash expenditures by the partnership. There appears to be no outstanding indebtedness other than current running expenses.

It appears that the business of the three partners was started during 1920 and has been operated at a profit.

Financial reports filed by them show revenues and expenses for the years ending December 31st as follows:

Item	1922	1923	1924
Transportation revenue	\$150,653 54	\$155,900 41	\$160,474 10
Other revenue		144 00	221 27
Totals	\$150,653 54	\$156,044 41	\$160,695 37

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Transportation expense -----	\$102,856 01	\$106,853 89	\$110,571 87
Depreciation -----	18,616 79	22,659 68	23,871 87
Totals -----	\$121,472 80	\$129,513 57	\$134,443 74
Net income -----	\$29,180 74	\$26,530 84	\$26,241 87
<i>Deduct—</i>			
Interest -----	\$2,156 74	\$1,877 98	\$800 00
Miscellaneous -----	7,175 50	4,964 40	1,711 87
Totals -----	\$9,332 24	\$6,842 38	\$2,511 87
Net profit -----	\$19,848 50	\$19,688 46	\$23,729 00

The copartners now desire to incorporate their business and have therefore caused the organization of Santa Rosa, Petaluma and Sausalito Auto Stage Company for the express purpose of receiving and operating the business and properties. The articles of incorporation, a copy of which is attached to the petition in this proceeding, show that it was organized on or about June 12, 1925, with an authorized capital stock of \$250,000, divided into 25,000 shares of the par value of \$10 each, all common, of which thirty shares are now outstanding.

It is of record that the original cost of the stages and tangible properties which applicant corporation intends to acquire from the partnership was \$144,383.59. Intangible property items and cash bring the total up to \$156,802.31. Four of the stages representing a cost of \$28,298.55 have been fully depreciated through credits to the reserve for accrued depreciation. The stages are still used by the partners during periods of peak load traffic. The reserve for accrued depreciation has also been credited because of depreciation on other stages and properties. As of December 31, 1924, the amount to the credit of the reserve for accrued depreciation was \$72,274.38. This amount of money has been appropriated from earnings to cover depreciation. The money, however, has for the most part, been invested in equipment and properties which is now to be transferred to the corporation and which the corporation must eventually replace. When that time comes, the corporation will not have \$72,274.38 cash on hand, but must obtain such cash from the sale of stock or other securities. Assuming that it is obtained through an additional stock issue and that the present application were granted, the company would have outstanding about \$222,000 of stock against properties costing about \$156,000. We do not believe that this represents a sound financial set-up. We think the reserve for accrued depreciation of the partnership, as well as the assets of the partnership should be transferred to the books of the corporation, and the reserve regarded as a liability which the corporation must replace. From this it follows that the corporation should be permitted to issue only \$90,000 of stock. When replacements must

ade, they can, if necessary, be financed through the issue of additional stock.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of operative rights and equipment, and the issue of \$150,000 of stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue and delivery of \$90,000 of stock is reasonably required for the purpose specified herein, and that this application in so far as it involves the issue of \$60,000 of stock, be dismissed without prejudice.

It is hereby ordered, that George J. Panario, Wm. H. Curtis and P. W. Dongan, copartners doing business under the firm name and style of Santa Rosa, Petaluma and Sausalito Auto Stage Company, be and they hereby are authorized to transfer to Santa Rosa, Petaluma and Sausalito Auto Stage Company, a corporation, the two certificates of public convenience and necessity and the properties and assets to which reference is made in the foregoing opinion, and Santa Rosa, Petaluma and Sausalito Auto Stage Company, a corporation, be and it hereby is authorized to issue \$90,000 of its common capital stock and assume the liabilities of Santa Rosa, Petaluma and Sausalito Auto Stage Company, a copartnership, in full payment for the properties of such copartnership, described in this application.

The authority herein granted is subject to the following conditions:

1. George J. Panario, Wm. H. Curtis and P. W. Dongan shall cancel immediately all time schedules, tariff rates and classifications at present on file with the Railroad Commission, and Santa Rosa, Petaluma and Sausalito Auto Stage Company, a corporation, shall file immediately new time schedules, tariffs, rates and classifications or adopt as its own the time schedules, tariffs, rates and classifications heretofore filed with the Commission by George J. Panario, Wm. H. Curtis and P. W. Dongan, all such new time schedules, tariffs, rates and classifications to be identical with those heretofore filed with the Commission, such cancellation and filing to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.
2. The rights and privileges, the transfer of which is herein authorized, may not again be transferred, assigned, leased, sold, hypothecated, or operations thereunder discontinued without the written consent of the Railroad Commission.
3. No vehicles may be operated by Santa Rosa, Petaluma and Sausalito Auto Stage Company, a corporation, unless such vehicles are

owned by such corporation or are leased by it on a basis satisfactory to the Railroad Commission.

4. No authority is hereby conveyed for the consolidation, enlargement, or expansion of any operative rights beyond those heretofore held by the applicants herein under the authority granted by the Commission.

5. The corporation shall keep such record of the issue and delivery of the stock herein authorized and the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The transfer of the operative rights and the properties, the consolidation and filing of time schedules, tariffs, rates and classifications and the issue of stock shall be made not later than ninety days from the date of this order unless such time is hereafter extended by further order of the Commission.

7. The authority herein granted will become effective upon the date hereof.

It is hereby further ordered, that this application in so far as it involves the issue of \$60,000 of stock, be dismissed without prejudice.

Dated at San Francisco, California, this twentieth day of August, 1925.

DECISION No. 15324.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED UTILITIES COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE NOTES

Application No. 11514.

Decided August 20, 1925.

SECURITIES—NOTES—To Issue.—Application granted.

BY THE COMMISSION.

ORDER.

Consolidated Utilities Company, having applied to the Railroad Commission for permission to issue notes for the sum of \$7,200 with interest at not to exceed 7 per cent per annum and payable on or before three years after date, and to execute a mortgage to secure payment of \$2,500 of said notes, a public hearing having been held before Examiner Fankhauser and the Railroad Commission having considered the request of applicant and being of the opinion that the money, property or labor to be procured or paid for by the issue of such notes is reasonably required and that this application should be granted;

It is hereby ordered, that Consolidated Utilities Company be and it is hereby authorized to execute a mortgage substantially in the same form as the mortgage filed with the Railroad Commission on August 17, 1925, provided that the authority herein granted to execute such mortgage is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

It is hereby further ordered, that Consolidated Utilities Company be and it is hereby authorized to issue at not less than par \$7,200 face value of notes payable on or before three years after the date hereof, with interest at not to exceed 7 per cent per annum, such notes to be issued for the purpose of paying or refunding the \$7,200 of notes authorized to be issued by Decision No. 10764 dated July 22, 1922, (Volume 22, Opinions and Orders of the Railroad Commission of California, page 83) and to secure the payment of \$2,500 of such notes by executing the mortgage to which reference is made herein.

It is hereby further ordered, that applicant may issue said notes for a term of less than three years after the date hereof and that if said notes are issued for a term of less than three years it may renew such notes from time to time, provided that the term of the original notes and the terms of the renewals thereof do not exceed a period of three years from the date hereof.

It is hereby further ordered, that the authority herein granted will become effective upon the date hereof and that Consolidated Utilities Company shall keep such record of the issue of the notes herein authorized as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twentieth day of August, 1925.

DECISION No. 15328.

IN THE MATTER OF THE APPLICATION OF HIGHWAY TRANSPORT COMPANY TO CONSOLIDATE ROUTES AND ESTABLISH THROUGH JOINT RATES BETWEEN SAN FRANCISCO ON THE ONE HAND, AND SOLEDAD, PACIFIC GROVE, HOLLISTER AND INTERMEDIATE POINTS ON THE OTHER HAND.

Application No. 10938.

Decided August 24, 1925.

CERTIFICATE—AUTO STAGE—UNIFIED SERVICE—THROUGH RATES AND SERVICE.—
Application granted.

Gwyn H. Baker, for Applicant.

Harry A. Encell, for Gilroy Express Company and Riccomini and Tunzi, Protestant.

L. N. Bradshaw, for Southern Pacific Company, Protestant.

BY THE COMMISSION.

OPINION.

In this proceeding Highway Transport Company, a corporation, has applied for a certificate of public convenience and necessity permitting it to consolidate and operate as one unified system an automotive service for the transportation of freight over the following routes: (a) between San Francisco and San Jose and intermediate points; (b) between San Jose, Soledad and intermediate points; (c) between San Jose, Pacific Grove and intermediate points; and (d) between San Jose, Hollister and intermediate points. Applicant owns two distinct operative rights, viz, between San Francisco and San Jose; and between San Jose and Soledad, Pacific Grove, Hollister and intermediate points. At present all freight from points on one operative right to points on another must be transferred at San Jose. Applicant proposes to eliminate this transfer on through freight in truck loads, handling such shipments from origin to destination without change. On less than truckload shipments moving between points on the different operative rights, the freight will still be transferred at San Jose but applicant desires permission to publish through rates applicable to such shipments, which will be lower than the existing combination of local rates. Accompanying the application is the tariff of rates proposed to be established. In connection with the proposed service applicant will follow the existing time schedules, and will use the equipment now devoted to its present operations.

Public hearings were held before Examiner Austin at San Francisco on May 5, and at Salinas on May 9, 1925, when evidence was offered, the matter was duly submitted, and it is now ready for decision.

The operative rights sought to be consolidated are as follows:

(1) The right to maintain a common carrier automotive freight service between San Francisco and San Jose, and intermediate points.

A certificate for this service was granted to Highway Transport Company, applicant herein, by this Commission's Decision No. 7948 dated August 2, 1920, in Application No. 5628.

(2) The right to operate an automobile freight truck line between San Jose and Soledad, Pacific Grove, Hollister and intermediate points.

By this Commission's Decision No. 7371, dated April 5, 1920, in Application No. 5272, a certificate authorizing this service was granted to J. G. Shaw and G. F. Beard, copartners, operating under the fictitious name of Service Motor Transportation Company. By Decision No. 12057, dated May 8, 1923, in Application No. 8972, the Commission authorized the transfer of this operative right to F. Hennessey and M.

rodel, copartners doing business under the fictitious name of F. Jennessey & Company; and by Decision No. 14319, dated December 2, 1924, in Application No. 10582, authority was granted to transfer this operative right to Highway Transport Company, applicant herein.

From the testimony of three of applicant's representatives, it appears that freight passing through San Jose, between points north and south of that city, must be transferred there. Applicant seeks to eliminate this transfer on truck-load lots, transporting them through San Jose without change. As to less than truck-load shipments, the freight will still be transferred at San Jose, there being no necessity, it was stated, for the operation of through trucks for this class of traffic.

Between San Francisco and San Jose, three round trips daily will be operated; between San Francisco and points intermediate to Hollister a daily service is proposed; between San Francisco and Salinas, Monterey and Pacific Grove, a bi-weekly service will be maintained; between San Francisco and points south of Salinas, including Soledad, the service will be weekly. To operate this line applicant will use its present equipment consisting of twenty-one trucks and sixteen trailers. If these trucks seven are used for making pick-ups at San Francisco, Palo Alto and San Jose. The pick-up trucks have a capacity of one to five tons; the road trucks, five to seven tons; and the trailers, three to seven tons.

At present a minimum charge of 50 cents is applicable on each of the routes converging at San Jose, making a total minimum charge of \$1.00 on shipments moving through San Jose between points on the different operative rights. It is proposed to reduce this minimum to 10 cents on through shipments. The proposed through commodity rates comprise two classes, viz, pick-up and terminal rates. With the exception of a few instances where the rates are on a unit basis, the terminal rates are 5 cents per 100 pounds lower than the pick-up rates, the latter including certain pick-up and delivery services within defined zones in San Francisco and San Jose, not accorded under the terminal rates. The proposed through rates are 10 cents per 100 pounds lower than the existing combination rates. Each factor of the present combination rates includes a terminal charge of 5 cents per 100 pounds covering pick-up or delivery services at San Jose, but since neither of these services will be performed in respect to through traffic, this reduction has been made in the proposed through rates.

Frequent inquiries are received by applicant as to through rates between points on its different operative rights, and shippers have complained that the existing combination rates are excessive. Inquires and requests for through truck-load shipments between points north and south of San Jose are received occasionally, but there is a considerable demand for less than truck-load shipments between these

points. Between San Francisco and points south of San Jose it was estimated that the traffic would average one ton a week; and between San Jose and Soledad, about nine tons a week, consisting largely of general merchandise, groceries, building material, grain and meats. As the present time schedule has proved satisfactory, it will be continued, but the service will be increased to meet traffic requirements.

In order to establish public convenience and necessity for the unification of its lines and the publication of through rates, applicant called eight witnesses, comprising merchants and dealers in San Francisco and Salinas. Summarized, their testimony was in substance that they desired the truck line for the convenience of store door delivery, and in one instance, because of the more expeditious settlement of damage claims by the truck line. Another favored the applicant because of its ability to handle emergency shipments promptly. All were interested in lower rates, some to enable them to extend competitive markets and others to escape cartage charges from the railroad terminal to their respective stores. But where the combined rail and cartage charges were lower than the truck rates, some stated they would continue to use the railroad. Substantially all of them testified they would favor the truck line charging the lowest rates.

Applicant also introduced, without objection, a petition (Applicant's Exhibit No. 1) in support of its application, signed by fifty-three individuals and companies engaged in business at various points along its routes.

The granting of the application was protested by Southern Pacific Company, Gilroy Express and Riccomini & Tunzi.

In behalf of protestant Southern Pacific Company it was shown that from San Francisco to points south of San Jose as far as Hollister and Soledad, it operated a rail freight service daily except Sundays. Using the month of March, 1925, as a typical period, it appears that freight was available for delivery at destinations along applicant's route south of San Jose at intervals ranging from 15 hours to 22 hours 55 minutes after the closing hour at San Francisco, viz, 4 p. m. of the preceding day. For example, freight was available for delivery, after leaving San Francisco, at Gilroy, 15 hours; at Hollister, 19 hours; at Salinas, 17 hours, 12 minutes; at Monterey, 19 hours, 30 minutes; at Pacific Grove, 22 hours, 55 minutes; and at Soledad, 21 hours.

This protestant called in its behalf seven witnesses who were engaged in business at Monterey, Salinas, Hollister, Gilroy, and Gonzales.

In general they testified that the rail service was satisfactory, expeditious and dependable, and that no additional transportation facilities were required to meet their needs. One witness from Hollister stated the railroad freight arrives earlier than applicant's truck from San

San Francisco; another witness from the same place testified that the railroad freight service was nearly as expeditious as the railway express service. A witness from Gonzales stated that a weekly truck service from San Francisco would not be convenient, since he sometimes needs merchandise delivered within 24 hours after it has been ordered.

This protestant also introduced, without objection (Southern Pacific Exhibit No. 2), letters from seven merchants of Gilroy, Monterey and Hollister, who had been interviewed by protestant's representative, but were unable to attend the hearing. These letters expressed approval of the rail service and stated that so far as their business was concerned no additional service was needed. None of these merchants, it was stated, patronized applicant's truck line. Since applicant had no opportunity for cross-examination, we believe that hearsay evidence of his character in cases such as this is entitled to but little weight. The same may be said of the petition offered by applicant. Public convenience and necessity can hardly be established or disproved by the ex parte statements of absent persons. In such applications witnesses should be called who can be subjected to the test of cross-examination. The Public Utilities Act (Sec. 55) prescribes adequate means for compelling the attendance of witnesses, and for taking their depositions in any proper case.

A statement was introduced (Southern Pacific Exhibit No. 3) showing the drayage rates charged at some of the points involved in this application. Substantially, it shows the following information:

Place	Rate per 100 lbs.— cents.	Minimum charge— cents.
Monterey -----	7½	25, 50*
Pacific Grove -----	7½	25, 50*
Gilroy -----	5	25
Hollister -----	5	50
Salinas—		
Under 500 lbs.-----		\$0 50
500 lbs. to 1000 lbs.-----		55
1000 lbs. to 2000 lbs.-----		1 00
Per ton in excess of 2000 lbs.-----		1 00

*Large bulky shipments.

Protestant also introduced a tabulation (Southern Pacific Exhibit No. 4) comparing its rates with those proposed by applicant between the principal points involved herein. With few exceptions protestant's rates are substantially lower than those of the applicant. But in considering the combined rail and cartage charges, this disparity in the rates to a large extent disappears. In many instances applicant's rates are lower than the rail rates and cartage charges. It is apparent that the public is interested in the total volume of the transportation charge, including delivery; this fact should be considered in determining the relative cost to the shipper of using the two methods of transportation.

It is admitted by the applicant that its proposed through rates are on the whole about seven cents per 100 pounds higher than the fourth class rail rates.

The protestant, Gilroy Express, is a copartnership consisting of James Bell and Charles Griffin, transacting business under that name. Pursuant to this Commission's Decision No. 14388, dated December 22, 1924, in Application No. 10296, protestant operates an automobile freight truck service between San Francisco, on the one hand, and Coyote, Hollister and intermediate points on the other, but not locally between San Francisco and Coyote and intermediate points, inclusive.

Protestants Pietro Riccomini and Ricardi Tunzi, as copartners, have applied to this Commission (Application No. 10504) for authority to operate a motor truck freight service between San Francisco and Salinas, Chualar, Gonzales, Soledad, Greenfield and King City. This application has been heard but not yet decided.

Both of these protestants joined in opposing the granting of the instant application. Testifying on behalf of these protestants, Mr. Louis G. Markel, whose qualifications as a traffic expert were admitted, stated that in most instances the rates of Gilroy Express and those proposed by Riccomini & Tunzi were substantially lower than those proposed by applicant. He stated that 85½ items shown in applicant's proposed tariff were lower than their basic rate, which he assumed to be merchandise, n. o. s. Under this item he testified 98 per cent of commodities in number and less than 50 per cent in volume, moved. These protestants also introduced a table of rate comparisons showing that out of 173 items specified in applicant's proposed tariff the rates on but 14 items were less than or equalled those of protestants. This witness, however, admitted that the Gilroy Express had reduced its rates when its certificate was granted and later reduced them still further. He conceded that about 50 per cent of its traffic moves under the rates so reduced.

In answer to this showing applicant introduced as its Exhibit No. 2 a copy of an application of Gilroy Express Company to the Commission, seeking permission to increase the rates shown in the schedule accompanying its application No. 10296, *supra*. Exhibit No. 2 is dated August 8, 1924, the date of the hearing in Application No. 10296, and over four months before the certificate in that matter was granted. This exhibit shows that according to the balance sheet of Gilroy Express of December 31, 1923, its loss, including nonoperating expense, was \$3,913.65 (Gilroy Express had been operating since April, 1921 under a limited certificate.) This evidence was designed to show that the rates of Gilroy Express were not remunerative. Applicant also introduced by reference the petition for rehearing filed by certain protestants in Application No. 10296, and not yet acted upon, wherein it is

contended, among other things, that the evidence introduced at the hearing of that application indicated that the rates of Gilroy Express were so low that it would be unable to pay operating expenses. We can not, of course, undertake in this case to pass upon the sufficiency of the petition for rehearing in another application. Its status in this matter, in so far as it has any weight at all is argumentative rather than evidentiary. The sufficiency of its allegations can not be tested without reviewing the record in Application No. 10296, and this we shall not undertake to do in the instant proceeding. But we can consider Applicant's Exhibit 2 as in the nature of an admission against interest. If the rates of Gilroy Express have been reduced, since its certificate was granted, below those shown in its application for an increase (and his fact appears from the evidence), then the low rates offered by way of comparison with those of applicant lose much of their evidentiary weight.

Although applicant has sought permission to publish through rates between points on distinct operative rights which it holds, it contends nevertheless that this Commission can not prevent the establishment of such rates, and that applicant has the right to publish the same at will.

By section 4, Auto Stage and Truck Transportation Act (Stats. 1917, Ch. 213, as amended), the Railroad Commission is clothed with power to supervise transportation companies, fix their rates and charges, and regulate them in their relationship with the traveling and shipping public. This section deals only with the regulatory powers of the Commission, not with the rights of transportation companies to publish rates. The act contains no other provisions relating to the publication of rates.

The last clause of section 33, Public Utilities Act, provides:

* * * The Commission shall have the power to establish and fix through routes and joint rates, fares or charges over common carriers and stage or auto stage lines and to fix the divisions of such joint rates, fares or charges.

In our opinion the term "common carrier" as used in section 33 is limited to the definition expressed in section 2, sub. (1) which specifies the meaning of that term when used in the act. This provision does not include motor freight truck nor passenger stage lines. As we interpret this provision, it relates only to the establishment by the Commission of through routes and joint rates, fares or charges and the fixing of divisions between railroads and other common carriers named in section 2 (1), on the one hand, and stage or auto stage lines, on the other hand.

Clearly, no power has been *expressly* conferred by statute upon transportation companies to establish and publish joint or through rates, either between different companies over their respective lines, or

over two or more distinct operative rights owned and operated by one company.

It is true that section 4, Auto Stage and Truck Transportation Act, impliedly recognizes and assumes the right and the duty of transportation companies to establish rates and file tariffs. But construing the act as a whole, with its many restrictive provisions not imposed upon other types of carriers by the Public Utilities Act, we conclude that the legislature intended to confine this right so that a transportation company could publish rates only within the field included in its certificate.

It is claimed that the right to publish joint or through rates is inherent in all transportation companies to the same extent as in railroad carriers, which freely publish such rates over their several lines. But there is a substantial difference between the two types of carriers in respect to their methods of operation. Since transportation over a public highway can be expanded or reduced with greater facility than over steel rails, a restrictive policy has been adopted with regard to transportation companies, requiring that their rights be expressly defined by a certificate granted by this Commission. These rights are measured by the certificate, and can not be extended without permission from the Commission.

We have held that a transportation company owning two separate connecting operative rights can not lawfully operate a through service over such operative rights without first securing an additional certificate authorizing such through service. Quoting from the opinion on page 1042:

We think it is clear from what has been shown that operative rights under certificates separately granted can not be lawfully combined for the establishment of through service without first obtaining from the Railroad Commission a certificate of public convenience and necessity authorizing the through service.

In re Western Motor Transfer Co. et al., Decision No. 9892, 20 C. R. C. Rep. 1038.

We have also held that an automobile stage line operating between certain termini can not lawfully serve intermediate points unless its operation conducted in good faith on or prior to May 1, 1917, or by certificate granted subsequent to that date it had acquired the right to do so. In other words, it can not expand its operative rights without the consent of the Commission.

Watson vs. White Bus Line, Dec. No. 9065, 20 C. R. C. Rep. 18.

On *certiorari*, this decision was sustained by the Supreme Court.

Motor Transit Co. vs. Railroad Commission, 189 Cal., 573; 209 P. 586.

Following this decision, we have recently held that there can be no enlargement of operative rights either as to routes served or the incl

sion of additional stations, unless authorized by a certificate from this Commission.

In re Motor Transit Co., Dec. 13454, 24 C. R. C. Rep. 807, 821, 827.

The unauthorized extension of service amounting in effect to a unification of operative rights, was condemned in:

Blair vs. Coast Truck Line, Inc., Dec. No. 10338, 21 C. R. C. Rep. 530.

The Supreme Court affirmed this decision on *certiorari*:

Coast Truck Line vs. Railroad Commission, 191 Cal. 257; 215 Pac. 398.

And we have also held that through routes and joint rates between connecting motor freight truck lines can not lawfully be established without permission from the Commission.

In re Oakland-San Jose Transportation Co. et al., Dec. No. 13321, 24 C. R. C. Rep. 660.

In that decision we also authorized the publication of through rates between points served by two distinct connecting operative rights of Consolidated Motor Freight Lines, Inc. (App. No. 8077.) The question of the inherent right of the carrier to publish such through rates was not discussed, nor was the point raised in that case.

There appears to be no substantial difference between establishing joint rates over separate connecting lines operated by different transportation companies, and publishing through rates over distinct connecting operative rights maintained by one company. In either event there is an enlargement of the rights originally conferred by the certificates creating the separate operative rights; in both cases a through route is created, entirely distinct from each of the constituent routes which are covered by separate certificates. All the reasons underlying our decision in the *Western Motor Transport Co.* case, *supra*, apply with equal force here. We therefore conclude that the permission of the Commission is a necessary prerequisite to the establishment of through rates between points on applicant's separate operative rights. We shall proceed to a determination of the application on its merits.

The record shows that applicant is now and for some time has been actually engaged in serving points on its routes both north and south of San Jose, and in handling traffic from points on one operative right to another under combination rates, and transferring all shipments at San Jose. Under the proposed consolidation applicant will be enabled to perform this service more effectively, through the elimination of the transfer at San Jose now necessary, and by the publication of reduced rates. Undoubtedly the public will profit from the resulting operating economies and rate reductions. The evidence shows a demand for this service not met by the existing rail, or truck facilities. It is true that a number of merchants testified that the rail facilities were adequate for

their needs, but notwithstanding this fact, there appears to be a substantial public demand for applicant's proposed through service.

The existence of lower rates over protestants' lines between points which applicant proposes to serve, is not of itself a sufficient reason for denying this application.

We have held that public convenience and necessity is not established merely by a showing that an applicant's rates are lower than those of other carriers serving the same territory. If such rates are excessive, complaint should be made to the Commission for a reduction in the rates.

In re B. H. Steele et al., Decision No. 7220, 17 C. R. C. Rep. 87.

In re Jose Joaquin et al., Decision No. 11118, 22 C. R. C. Rep.

For the same reason, a showing of public convenience and necessity by an applicant, otherwise sufficient, can not be overcome merely by proof of another service conducted over the same route at lower rates. If applicant's rates are subsequently shown to be excessive, the rates can be reduced upon complaint or by an investigation on the Commission's own motion. Moreover, as we have stated, the rail cartage charges nearly equal applicant's proposed rates; and the circumstances surrounding the rates of protestant truck line indicate that such rates can not fairly be used as a measure of the reasonableness of applicant's proposed rates.

In our judgment the application should be granted with regard both to the consolidation of the system and the publication of the new rates.

Upon full consideration of the evidence we are of the opinion and hereby find as a fact that public convenience and necessity require the consolidation and unification of the operative rights of Highway Transport Company, hereinabove described, and the operation thereof for the transportation of freight as one unified system, subject to the provisions and conditions of this opinion and order.

Upon full consideration of the evidence we are of the opinion and hereby further find as a fact that public convenience and necessity require the establishment and maintenance by Highway Transport Company, a corporation, of through rates, lower than the existing combinations of local rates, applicable in either direction, between points situated on applicant's line extending from San Francisco to San Jose and intermediate points, on the one hand, and points situated on applicant's lines extending from San Jose to Soledad, Pacific Grove, Hollister and intermediate points, on the other hand.

An order will be entered accordingly.

ORDER.

public hearing having been held in the above entitled application, matter, having been duly submitted, the Commission being now y advised, and basing its order on the findings of fact which appear he opinion preceding this order:

he Railroad Commission of the State of California hereby declares t public convenience and necessity require the consolidation and fication of the operative rights of Highway Transport Company, a poration, and the operation, as one unified system, of through service the transportation of freight between all the termini and inter-lia te points served by and along its present several routes, which tes are as follows:

1) Between San Francisco and San Jose and intermediate points, rated pursuant to authority granted by Decision No. 7944, dated gust 2, 1920, in Application No. 5628.

2) Between San Jose and Soledad, Pacific Grove, Hollister, and rmediate points, operated pursuant to authority granted by ision No. 14319, dated December 2, 1924, in Application No. 10582. t is hereby ordered, that a certificate of public convenience and essage be and the same is hereby granted to Highway Transport npany, a corporation, to consolidate the operative rights herein cribed, and to enable it to render through service under the afore-l consolidated operative rights.

t is hereby further ordered, that Highway Transport Company, a poration, be and it is hereby permitted to establish and continue in ct through rates lower than the existing combination of local rates, licable in either direction, between points on its lines north and th of San Jose, respectively, to wit: Between San Francisco and a Jose and intermediate points, on the one hand, and between San e and Soledad, Pacific Grove, Hollister, and intermediate points, the other hand; and that said Highway Transport Company be and s hereby authorized to file within a period of not to exceed twenty y) days from date hereof, effective within ten (10) days after filing, ough rates, and rules and regulations identical with those set forth Exhibit "A" attached to the application herein.

The authority herein granted to consolidate and unify said opera-e rights is subject to the following conditions:

.. Applicant shall file its written acceptance of the certificate herein ntent within a period of not to exceed ten (10) days from date eof; shall file, in duplicate, tariff of rates and time schedules within eriod of not to exceed twenty (20) days from date hereof, such iff of rates and time schedules to be identical with those attached to application herein; and shall commence operation of said service hin a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all purposes, other than hereinabove stated the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this twenty-fourth day of August, 1925.

DECISION No. 15329.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED UTILITIES COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE STOCK.

Application No. 11515.
Decided August 25, 1925.

SECURITIES—STOCK—TO ISSUE—STOCK DIVIDEND.—Authority granted to issue \$43,530 par value of common stock, and \$61,800 par value of 7 per cent cumulative preferred stock. Permission granted to use \$18,530 of common stock to reimburse the company's treasury for surplus earnings invested in plant, and properties; said stock to be distributed to stockholders as a stock dividend.

Ernest Irwin, for Applicant.

BY THE COMMISSION.

OPINION.

Consolidated Utilities Company asks permission to issue \$43,530 par value of its common capital stock and \$61,800 par value of 7 per cent cumulative preferred stock, for the purposes herein stated.

Consolidated Utilities Company owns and operates a local telephone system within the city of Compton and in the territory adjacent thereto, including portions of the cities of Los Angeles, Long Beach and Lynwood and in the unincorporated towns of Gardena, Mone Clearwater, Hynes and Bellflower. For the calendar year 1924 the company reports the average number of working stations at 17,000. Its operating revenues for 1924 are reported at \$53,368.39 and telephone operating expenses, including taxes and depreciation, \$45,927.84, leaving operating income available for interest, dividends and surplus of \$7,440.55.

As of May 31, 1925, applicant reports assets and liabilities as follows:

Assets.

and and buildings-----	\$10,330 81
and -----	150 00
entral office equipment-----	4,127 19
entral office telephone equipment-----	2,029 67
tation equipment-----	22,944 16
tation apparatus -----	802 50
tation installations -----	1,027 09
Exchange lines -----	30,568 98
Exchange pole lines-----	925 08
Exchange aerial wire-----	746 72
Exchange underground conduits-----	447 28
eneral equipment -----	1,269 59
Office furniture and fixtures-----	95 83
ngineering and superintendence-----	661 00
Total-----	\$76,125 90
Plant and equipment Jan. 1, 1915-----	47,290 69
Total plant-----	\$123,416 59
Cash -----	336 25
Due from subscribers' advance payments (red)-----	172 93
aterial and supplies-----	447 04
Total assets-----	\$124,026 95

Liabilities.

Reserved for accrued depreciation-----	\$28,494 05
Subscribers' deposits -----	12,214 32
Capital stock -----	37,060 00
unded debt-----	11,200 00
orporate surplus -----	4,957 74
Surplus -----	30,100 84
Total liabilities-----	\$124,026 95

During the past five years the company has paid eight per cent dividends on its outstanding common stock. Its accumulated surplus as of May 31, 1925, is reported at \$30,100.84. The company asks permission to issue \$18,530 of its common stock to reimburse its treasury because of surplus earnings invested in its properties and to distribute such stock as a stock dividend to its stockholders. The increase in applicant's fixed capital accounts and the increase in its surplus account warrants the issue of the \$18,530 of common stock for the purposes indicated.

Applicant has amended its articles of incorporation (Applicant's Exhibit No. 1) and such articles now provide for an authorized stock issue of \$400,000, divided into \$200,000 of 7 per cent cumulative preferred and \$200,000 of common stock. The shares of stock have a par value of \$100. The company in its amended articles of incorporation reserves the right at any time after January 1, 1927, to redeem all or part of the then outstanding preferred stock by paying the holders of record \$105 per share plus all unpaid accrued dividends at the date of redemption.

Applicant asks permission to issue and sell at not less than 97 per cent of its par value \$25,000 of its common stock and \$61,800 of its 7 per cent cumulative preferred stock. Of the proceeds obtained from the sale of \$11,800 of preferred stock, applicant desires to use \$11,800 to pay outstanding indebtedness. The remainder of the proceeds obtained from the sale of the preferred stock and the proceeds obtained from the sale of the common stock, applicant intends to use to pay the cost of extensions, additions and betterments to its properties. Exhibit No 3 applicant reports estimated construction expenditures of \$42,591.36. It is of record that the expenditures are necessary in order to enable applicant to increase its telephone facilities and furnish adequate telephone service.

We believe that applicant's stock should be sold for not less than \$95 per share net to the company. The suggestion has been made that applicant may have to incur an expense of five dollars per share to sell the stock. In that event the stock must be sold at par, netting the company \$95 per share.

ORDER.

Consolidated Utilities Company, having applied to the Railroad Commission for permission to issue \$43,530 par value of its common stock and \$61,800 par value of its 7 per cent cumulative preferred stock at a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and that this application should be granted, as herein provided;

It is hereby ordered, that Consolidated Utilities Company be and is hereby authorized to issue and sell on or before June 30, 1927, \$43,530 par value of its common stock and \$61,800 par value of its 7 per cent cumulative preferred stock.

The authority granted herein to issue stock is subject to the following terms and conditions:

1. Of the common stock herein authorized to be issued, \$18,530 par value shall be issued at not less than par and the proceeds used to reimburse the company's treasury because of surplus earnings invested in plant and properties. Upon the reimbursement of the company's treasury the stock may be distributed to applicant's stockholders as a stock dividend.

2. Twenty-five thousand dollars of the common stock and \$61,800 of the preferred stock herein authorized to be issued shall be sold by applicant for not less than \$95 per share net to applicant.

3. Only such amounts (not exceeding five dollars per share) of the proceeds shall be expended to pay expenses incident to the sale of the stock as may be necessary.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

the difference between the actual selling price of the stock and \$95 per share net.

Of the net proceeds obtained from the sale of the common and preferred stock, \$11,200 may be used to pay the indebtedness referred applicant's balance sheet as of May 31, 1925, and \$42,591.36 may be used to pay the cost of the new construction set forth in applicant's Exhibit No. 3.

Any moneys obtained from the sale of the common and preferred stock and representing net proceeds and not needed for the aforesaid purposes, may be expended only for such purposes as the Railroad Commission will hereafter authorize by supplemental order or orders. Consolidated Utilities Company shall keep such record of the sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The authority herein granted will become effective upon the expiration hereof.

Witness my hand at San Francisco, California, this twenty-fifth day of August,

DECISION No. 15335.

IN THE MATTER OF THE APPLICATION OF MRS. E. M. CAMPODONICO FOR AN ORDER AUTHORIZING THE INCREASE OF WATER RATES IN THE TOWN OF GUADALUPE IN THE NINTH TOWNSHIP OF THE COUNTY OF SANTA BARBARA, CALIFORNIA.

Application No. 10779.

Decided August 25, 1925.

—WATER UTILITY.—Rates authorized that will produce a fair return upon an investment of \$10,594.

E. M. Campodonico, in propria persona.
Campodonico, for Applicant.

THE COMMISSION.

OPINION.

s. E. M. Campodonico, applicant in the above entitled proceeding, and operates a small public utility water system which supplies water for domestic and commercial purposes to the inhabitants of the incorporated town of Guadalupe and the immediate vicinity in Santa Barbara County. The application in this matter alleges that the present rates do not yield sufficient revenue to provide for operating expenses, depreciation, and a fair return upon the investment. The Commission therefore is requested to establish an increased schedule of rates.

A public hearing in this matter was held before Examiner S. J. White at Guadalupe, after due notice thereof had been given so that all interested parties might appear and be heard.

Applicant's water system was originally installed in 1894 as a private pumping plant, which very soon thereafter was acquired by applicant's husband, who undertook to furnish water to a few of the neighbors as a matter of accommodation only. The system has since been extended and enlarged from time to time until at the present time there are 103 consumers receiving their water supply from this plant. The water is obtained from artesian wells and pumped into a storage tank, from which it is distributed to the consumers by gravity.

The rates at present in effect have been charged on this system for the past several years and have never been fixed by this Commission. These rates and those proposed by the applicant are as follows:

Monthly Flat Rates.

	Present rate	Proposed
Hotels, including barber shops with baths-----	\$2 75	\$3 00
Domestic or household-----	1 65	2 00
Restaurants-----	1 65	2 00
Special (truck garden, charge per head for cattle or horses) --	---	---
Flush tank for sewer-----	---	---

There are no meters installed on the system and a meter rate is not desired by applicant. The water, it is claimed, contains certain mineralizing elements which make the use of meters impracticable, although the water is not in any way considered injurious or unpalatable for domestic purposes.

According to the application the value of this system as of January 1, 1925, was \$14,708, the annual depreciation \$675 and the average annual cost of operation and maintenance \$984.

F. H. Van Hoesen, one of the Commission's hydraulic engineers, presented a report based upon an investigation of the system, in which the estimated original cost of the properties was found to be \$14,708, the depreciation annuity \$172, computed by the sinking fund method, and the reasonable cost of maintenance and operation for the immediate future estimated to be \$1,305.

No engineering testimony was presented by applicant. The evidence indicates that the figures set out in the application, purporting to show the value of the physical property of the system and the annual depreciation charges, were computed by an accountant who did not appear at the hearing and was not therefore subject to cross-examination. The testimony presented, however, shows that the value of \$14,708 as set out in the application is intended to represent the cost to reproduce the plant new under present day prices, with apparently no deduction made for accrued depreciation. The annual depreciation of \$675 also set out in the application was computed by the straight line method.

An analysis of the evidence shows that the figures presented by applicant for the operating expenses were made up as the average annual cost over a period of years and include certain charges for extraordinary expenses and also charges for minor capital installations; at the same time these figures did not include any allowances for the costs of management or supervision of plant, which has been carried on by the applicant or members of her family. However these matters were considered and provided for in the report of the Commission's engineer, to which no objection was made at the hearing, and as the figures and conclusions arrived at in this report appear to be reasonable, they will be used for the purpose of this proceeding.

Based upon the foregoing figures a summary of the annual charges is set out below:

Return at 8 per cent on \$10,594-----	\$848 00
Maintenance and operating expense-----	1,305 00
Depreciation annuity -----	172 00
Total annual charges-----	\$2,325 00

According to the evidence submitted, the revenues for the year 1924 as presented by applicant and the Commission's engineers are subject to correction. The revised figures for these revenues are \$2,100, which according to the above annual charges reflect a return of 5.9 per cent upon the investment of \$10,594. It is apparent that a slight adjustment in the existing schedule of rates should be made at this time in order to provide a reasonable return to applicant and also in order that the rates may be more equitably spread among the consumers according to their use of water.

ORDER.

Mrs. E. M. Campodonico having made application as entitled above, public hearing having been held thereon, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the rates now charged by Mrs. E. M. Campodonico for water delivered to consumers in and in the vicinity of Guadalupe, Santa Barbara County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

Basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Mrs. E. M. Campodonico be and she is hereby authorized and directed to file with this Commission on or before the thirty-first day of August, 1925, the following schedule of rates to be charged for water delivered to her public utility consumers in and in the vicinity of Guadalupe, Santa Barbara County, effective

for all water delivered subsequent to said thirty-first day of August, 1925:

Monthly Flat Rates.

1. Residences or houses of five rooms or less, including toilet and bath	\$1 75
For each additional room	15
For each additional bath tub or toilet	20
Additional for private barn with not more than one horse or one cow	25
For each additional horse or cow	20
2. Sprinkling or irrigation of lawns, gardens or shrubbery, per square yard of surface actually irrigated	.002
3. Butcher shops, grocery stores and bakeries	2 50
4. Banks, halls, theaters, drug stores, dental offices, small stores and shops, etc.	2 00
5. Office buildings, for each room supplied with running water	50
Monthly minimum	2 00
6. Public garages, with average of six automobiles or less	3 00
For each additional automobile	50
7. Ice cream parlors and soft drink stands	2 50
Soda fountains and ice cream stands operated in connection with other businesses	1 25
8. Barber shops, one chair	1 25
Each additional chair	25
Additional for each public bath tub	50
Additional for each toilet	25
9. Restaurants, according to size and to use of water	2 00 to 4 00
10. Hotels:	
Dining room	2 00
Each bedroom with running water	25
Each bath tub	50
Each toilet	25
Minimum monthly charge	2 50
11. Building Work:	
For mortar and to dampen brick, per 1000 brick	35
For cement work, per barrel of cement	15
12. Truck gardens, for each one-eighth acre irrigated	50

It is hereby further ordered, that Mrs. E. M. Campodonico be and she is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with her consumers, such rules and regulations to become effective upon their acceptance by this Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this twenty-fifth day of August, 1925.

MISCELLANEOUS AND SUPPLEMENTAL ORDERS.

AUTO STAGE APPLICATIONS.

DISMISSALS.

GRADE CROSSINGS.

TABLE A—DISMISSALS (Cases).

Dec. No.	Case No.	Litigants	Date
14539	2029	J. B. O'Neil and H. L. Dunning vs. Economy Home Builders, Norins Realty Company, Thomas Berry and Fred Mau	Feb. 5, 1925
14566	2082	Engels Copper Mining Company vs. The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Company, The Western Pacific Railroad Company et al.	Feb. 14, 1925
14675	2033	John B. Grissel and John F. Dolan vs. Albert W. Robinson, Colin Tamblin, Edward R. Stambough et al.	Mar. 16, 1925
14683	1992	Miller and Lux, Inc., vs. Southern Pacific Company	Mar. 17, 1925
14749	1979	Wiley J. Gibson (Bordenland Express) vs. W. C. Greenleaf, S. A. May et al.	Apr. 4, 1925
14750	2090	San Rafael Freight and Transfer Company vs. Dixon Brothers Express Company	Apr. 4, 1925
14751	2100	San Rafael Freight and Transfer Company vs. D. Millar and John Scarborough	Apr. 4, 1925
14851	2089	A. R. Black, O. C. White and J. E. Emery vs. J. D. Millar and John Scarborough	Apr. 23, 1925
14900	1734	Wilson and Company of California vs. Atchison, Topeka and Santa Fe Railway Company et al.	May 7, 1925
14968	2109	Henry Howison et al. vs. Visalia Electric Railway Company	May 22, 1925
14987	2104	Charles R. Desmond (Apartment House Association of Los Angeles County, Inc.) vs. Southern California Telephone Company	May 28, 1925
15089	2117	B. F. Porter vs. The Pacific Telephone and Telegraph Company	June 22, 1925
15194	1659	Edmund O. Dickinson and Anna Warne vs. Whittier Water Company	July 18, 1925
15212	2058	Great Western Electro-Chemical Company vs. Southern Pacific Company	July 23, 1925
15225	1658	Commission's investigation into rules, service, etc. of Whittier Water Company, California Domestic Water Company and La Habra Water Company	July 30, 1925
15302	2019	S. B. Cowan vs. George L. Wright	Aug. 15, 1925

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Dec. No.	App. No.	Applicant	Nature of proceeding	Date
14537	10649	Los Angeles Junction Railroad Company	To construct railroad across certain streets.	Feb. 5, 1925
14538	10638	H. C. Kitzmiller	To operate auto stage line—Los Angeles and Needles.	Feb. 5, 1925
14602	10518	The Western Pacific Railroad Company	To construct spur track at grade along and across portion of Loomis street and across San Bruno Avenue in city and county of San Francisco.	Feb. 24, 1925
14619	9313	S. F. B. Morse	To operate auto passenger bus service between Pacific Grove, Monterey and Del Monte, and Los Banos and Merced.	Mar. 3, 1925
14626	10100	Motor Coach Company	To extend present auto stage lines.	Mar. 3, 1925
14627	10447	Haydis Trucking Company	To operate auto freight truck service—Los Angeles, Kane Springs, Westmoreland, Brawley, etc.	Mar. 3, 1925
14628	10256	Davies Warehouse Company	To issue bonds and notes.	Mar. 3, 1925
14642	10732	Carpenteria Water Company	For approval of rate schedule.	Mar. 5, 1925
14723	10712	C. A. Rowlee	To operate passenger and freight service—Redding and Winthrop.	Mar. 31, 1925
14724	10763	J. D. West	To operate auto stage line—Redding and Winthrop and intermediate points.	Mar. 31, 1925
14748	10745	Albert H. Beach	To furnish water to consumers on Sequoia, Sycamore, Bemis streets and Edenhurst Avenue in Tract 5673, Los Angeles.	April 4, 1925
14762	10869	W. C. Lawrence (Lawrence Stage Company)	To extend existing service between Chester and Westwood.	April 7, 1925
14775	10981	R. L. Bishop	To operate auto freight truck service—Oxnard and Los Angeles and Santa Monica.	April 10, 1925
14808	10444	Pickwick Stages, Inc.	To extend and operate auto stage service—Santa Ana, and San Pedro, via and including Long Beach.	April 15, 1925
14809	10522	Pacific Electric Railway Company	To operate motor coach service—Pomona and Claremont and intermediate points, Los Angeles County, as substitute for certain electric railway service.	April 15, 1925
14822	9297	O. P. Robinson and F. A. Fawcett	To operate motor freight service—Sacramento, Dixon and Vacaville locally and interloccally.	April 15, 1925
14823	9323	Smith and Dunlap	To operate motor freight service—Sacramento and State line.	April 20, 1925
14849	9522	Bert Albush and Charles Molinari	To operate auto freight and express service—Placerville and Lake Tahoe.	April 20, 1925
14850	10244	Farmers Mill and Feed Company	To operate motor freight truck service—Yerington, Nevada and Bridgeport.	April 20, 1925
14851	10621	A. F. Fenton	To operate auto stage service for freight only.	April 25, 1925
14918	10934	Pickwick Stages System	To operate auto stage service—Williams and Ukiah and intermediate points.	April 25, 1925
14936	10938	W. C. Lawrence and James Fielding	To operate auto stage service—Susanville and the California-Nevada line to Reno and intermediate points.	May 12, 1925
14988	10091	Union Motor Transportation Company	To operate truck service—Los Angeles, Orange, Riverside, Ventura, San Bernardino, Santa Barbara, Kern, Imperial and San Diego counties.	May 14, 1925
14990	10580	George J. Ponario and William Curtis	To operate auto stage line—Santa Rosa, Sonoma County, and Sausalito, Marin County, and between Calistoga and Santa Rosa and intermediate points.	May 28, 1925
14991	11078	Stanley S. Anderson	To operate passenger bus line—Beverly Hills Hotel grounds and Fairfax Avenue in city of Los Angeles.	May 28, 1925
15012	10877	San Joaquin Valley Transportation Company, Imperial Valley—Los Angeles Express and Hodge Transportation System.	To establish joint rates and through routes.	May 29, 1925
15039	5081	Pickwick Stages System	To operate auto stage service—San Francisco and California—Oregon line north of Cole and intermediate points.	June 3, 1925
15047	10016	La Habra Domestic Water Company	To issue \$37,000 of five year 7 per cent notes.	June 6, 1925 June 13, 1925

15088	10909	J. Saliabury, W. H. Mills and R. F. Rosso (Hasty Messenger and Delivery Company)	To operate parcel delivery service—Los Angeles.	June 24, 1925
15147	10886	City of San Gabriel (Southern Pacific Railroad Company)	To construct grade crossing at conjunction of St. Albans Road with Monrovia Branch of Southern Pacific Company's right of way.	July 7, 1925
15165	11077	B. G. Adams (Vermont Water Company)	For authority to change meter rates.	July 9, 1925
15184	11385	Key System Transit Company	To construct and maintain spur track across private right of way in City of Oakland, Alameda County.	July 14, 1925
15199	11070	Mt. Lassen Transit Company	To operate passenger, express and baggage service—Keddie, Quincy and intermediate points.	July 21, 1925
15211	11287	Postal Telegraph-Cable Company	To open telegraph office at El Centro.	July 23, 1925
	11288	Postal Telegraph-Cable Company	To open telegraph office at Brawley.	July 23, 1925
	11289	Postal Telegraph-Cable Company	To open telegraph office at Calexico.	July 23, 1925
15223	11293	Postal Telegraph-Cable Company	To install long distance telephone service at Redlands.	July 23, 1925
	10824	Earl B. Stephens and James Raymond Stephens.	Former to sell and latter to purchase telephone line known as Murphys-Sheep Ranch Farmers Telephone Line.	July 30, 1925
15224	11386	Lewis A. Monroe, agent for Motor Transit Company	To readjust passenger fares on Mountain Division.	July 30, 1925
15252	11236	City of Palo Alto.	To abolish spur track of Southern Pacific Railroad Company in said city.	July 30, 1925
15301	10821	L. R. Payne	To operate auto passenger, express and mail service—Visalia and Lemon Cove and intermediate points.	Aug. 3, 1925
15304	11503	Myers and Howard	To operate auto truck freight service from mill of Southern Oregon Lumber Company to Gazelle.	Aug. 15, 1925
15313	11045	Minkler Southern Railway Company	To issue first mortgage bonds and execute mortgage.	Aug. 17, 1925
15314	11065	Santa Fe and Los Angeles Harbor Railway Company	To issue first mortgage bonds and execute mortgage.	Aug. 18, 1925
15315	11157	Lewis A. Monroe, agent for Gardena and Los Angeles Express	To adopt certain class rates.	Aug. 18, 1925

CALIFORNIA RAILROAD COMMISSION. DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceeding	Action	Date
14510	10650	J. W. Houk and J. H. Smith (Chico-Westwood-Susanville Auto Stage)	To operate auto line between Chester, Plumas County, and Juniper Lake, Lassen County, as extension of service.	Granted	Jan. 30, 1925
14511	10733	A. M. Akins and Sons	To operate auto freight service—Lower Lake and Subs Early subdivision, as extension of existing service.	Granted	Jan. 30, 1925
14516	10762	C. F. Fredericksen and Sons	To operate auto freight service—Lower Lake and Subs Early subdivision, as extension of existing service.	Granted	Jan. 30, 1925
14524	10787	California Navigation and Improvement Company	To operate vessels between San Joaquin River points and Encinal terminal on Oakland Estuary.	Granted	Jan. 31, 1925
14525	10788	California Transportation Company	To operate vessels between San Joaquin and Sacramento River points and Encinal terminal.	Granted	Jan. 31, 1925
14525	10794	L. L. and R. L. Walker	To sell to H. H. Walker auto truck line between Los Angeles and Alhambra, San Gabriel, Arcadia and intermediate points.	Granted	Feb. 2, 1925
14526	10795	E. B. Brown	To discontinue auto passenger and express service between Needles and state line of California.	Granted	Feb. 2, 1925
14527	10795	Harry Pothoff	To sell to Chas. B. Holbrook and V. H. Shuler an auto stage line between Walnut Park and Home Gardens.	Granted	Feb. 2, 1925
14530	10034	Chauncey Bluff	To operate auto freight service—Central Manufacturing District, Inc., and Los Angeles and Los Angeles Harbor.	Granted	Feb. 2, 1925
14535	9534	Pierce Arrow Stage (A. L. Richardson)	To operate auto stage service—Diamond Springs Cross Roads and Diamond Springs and intermediate points.	Granted	Feb. 5, 1925
14543	10470	G. F. Willhite	To operate auto stage line between Eureka and Orleans via Arcata, Blue Lake, Hoopa and Weitchpec.	Granted	Feb. 5, 1925
14546	10065	Lee J. Stoddard	To operate auto truck service between Calistoga and Kelseyville (no intermediate service, however).	Denied	Feb. 9, 1925
14548	10774	A. L. Phillips and Schneider Brothers	Former to sell to latter auto freight line—Wheatland and Sacramento.	Granted	Feb. 9, 1925
14563	10528	McDonald and Mizer	To operate auto freight and passenger service—Needles, California, and Nevada state line.	Granted	Feb. 9, 1925
14567	10828	H. E. Boswell and Sam Aronson (Golden Eagle-Barker Stage Line)	To sell to Beverly Gibson, M. B. Gibson, et al. (California-Nevada Stages) auto stage lines between Sacramento, Roseville, Lincoln, Marysville and intermediate points.	Granted	Feb. 14, 1925
14568	10329	E. N. Balish	To operate auto passenger service—Santa Barbara and Pasadena and intermediate points.	Granted	Feb. 17, 1925
14570	10625	Oppenheimer Truck Line	To extend auto freight service from Descanso to Pine Valley via Guatay.	Denied	Feb. 17, 1925
14572	10666	Penoyer's Descanso and Alpine Stage Line	To operate auto passenger and express service—San Diego and Descanso and intermediate points (Preliminary Order).	Granted	Feb. 17, 1925
14578	10578	M. R. Wagner (Wagner's Inglewood Express)	To sell to A. F. Schwartz and Fred A. Oder (Redondo-Los Angeles Express) auto truck freight line—Los Angeles, Inglewood, El Segundo and intermediate points.	Granted	Feb. 17, 1925
14579	10478	F. H. Beardsley	To operate auto passenger service—Klamath Falls, Oregon, and Copco, California.	Granted	Feb. 18, 1925
				Granted	Feb. 18, 1925

14588	10799	Ralph L. and Marguerite Heple.....	To sell to Pickwick Stages, Northern Division, auto passenger lines—San Jose and Gilroy and intermediate points.....	Granted	Feb. 24, 1925
14590	10818	Coast Truck Line.....	To operate auto freight service between Los Angeles and San Diego via Escondido.....	Granted	Feb. 24, 1925
14591	10832	John A. Dugan and A. L. Richardson.....	Former to sell to latter an auto passenger line—Placerville and Camino.....	Granted	Feb. 24, 1925
14610	10837	The Alpha Company and Alpha Hardware and Supply Company.....	Former to sell to latter auto truck freight line—Nevada City-Alleghany and Forest City.....	Granted	Feb. 26, 1925
14611	10830	Louis E. Smith and George A. Scott.....	Former to sell and latter to purchase auto stage service between Susanville and Camps A, B, C, D and E of the Fruit Growers Supply Company, and Eagle Lake points.....	Granted	Feb. 26, 1925
14612	10850	J. A. Manor.....	To operate auto passenger, baggage, freight and express service—Colusa, Princeton and intermediate points.....	Granted	Mar. 3, 1925
14621	10861	Jas. H. Ransome and Abo Ransom.....	Former to sell and latter to purchase auto passenger and freight line—Big Pine and Deep Springs.....	Granted	Mar. 5, 1925
14631	10716	Murakimi Taisaburo and Beverly Gibson.....	Former to sell to latter auto passenger and express line—Walnut Grove, Stockton and intermediate points.....	Granted	Mar. 5, 1925
14640	10586	George J. Panario and William Curtis.....	To operate auto passenger line—Santa Rosa, Sonoma County, and Suisa-lico, Marin County, and Calistoga and Santa Rosa and intermediate points (Preliminary Order).....	Granted	Mar. 5, 1925
14652	10112	H. R. Pace and C. A. Thompson (Siskiyou Transit Company).....	To operate auto stage line between Redding and northern boundary of California, and intermediate points.....	Denied	Mar. 11, 1925
14685	10581	San Rafael-Lagunitas Auto Stage Company.....	To operate auto stage passenger, express and baggage service—San Rafael and Lagunitas.....	Granted	Mar. 19, 1925
14692	10134	Sam Aronson and H. E. Boswell (Golden Eagle-Barber Stage Line).....	To operate passenger and express stage service—Sacramento and Oroville.	Denied	Mar. 24, 1925
14694	10844	Motor Transit Company and Charles E. Sansome.....	Former to lease to latter auto stage line—Maricopa and Taft.....	Granted	Mar. 24, 1925
14704	10876	C. O. Bentley.....	To operate auto stage line—Redwood City and Canyon Sanitarium.....	Granted	Mar. 25, 1925
14707	10925	J. K. Vanderhurst and E. K. Duda.....	Former to sell to latter one-half interest in auto line between Salinas and King City and intermediate points.....	Granted	Mar. 25, 1925
14709	10891	Tito Fanucci.....	To operate motor coach passenger service—Mountain View and Oakland.	Denied	Mar. 27, 1925
14714	10939	Claud Sears (Winters Truck) and W. L. Warner.....	Former to sell to latter auto freight line between Sacramento, Davis and Winters.....	Granted	Mar. 27, 1925
14715	10899	Pacific Electric Railway Company.....	To operate motor coach service between intersection of Wilshire and San Vicente Boulevards and Gardner Junction.....	Granted	Mar. 27, 1925
14720	10884	Clarence M. Bullock.....	To sell to K. M. Stevenson and Paul Shafer an auto truck freight line—San Bernardino and Victorville.....	Granted	Mar. 31, 1925
14737	10948	W. C. Lawrence and Mt. Lassen Transit Company.....	Former to sell to latter auto stage service—Keddie and Drakesbad and intermediate points, and between Keddie and Susanville and intermediate points.....	Granted	Mar. 31, 1925
14738	10952	W. H. Pimentel.....	To operate auto passenger stage service—Sacramento and Martin's Store.	Granted	April 4, 1925
14739	10960	George Gentle.....	To sell to R. L. Judy and C. A. Elliott (Winters-Davis-Sacramento Auto Stage) an auto stage line—Sacramento and Davis and intermediate points.....	Granted	April 4, 1925
14740	10974	A. W. Bedwell.....	To operate auto truck service—Independence and Kearsarge.....	Granted	April 4, 1925
14760	10963	C. B. Locklin (Sacramento Motor Transport).....	To operate motor truck line—Sacramento and Suisun, serving also Vacaville, Cordelia and Fairfield, and no other intermediate points (temporary).....	Granted	April 7, 1925
14768	10243	Vern Towne.....	To operate auto freight service—Santa Cruz and Salinas.....	Denied	April 10, 1925
14776	10815	J. D. Weast.....	To operate auto stage service—Redding and Mud Springs.....	Granted	April 10, 1925

CALIFORNIA RAILROAD COMMISSION DECISIONS.

No.	No.	Applicant	Nature of proceeding	Action	Date
14779	10977	A. Machomich	To operate auto stage service—Blairsdon and Gold Lake Camp.	Granted	April 10, 1925
14781	10954	Lynn C. Hudson, William T. Hudson and John I. Githens	To sell to Tolson Transportation System, Inc., an auto truck line between Los Angeles and Long Beach.	Granted	April 10, 1925
14792	10304	R. M. Davis and H. E. Smith	To operate auto freight truck service—San Bernardino, Colton and Riverside, San Jacinto and intermediate points.	Denied	April 15, 1925
14793	10466	Laguna Beach Short Line Automobile Stage Company (Edward A. Logsdon and Norman H. Robotham)	To operate auto passenger and baggage service—Serra Junction and San Juan Capistrano.	Granted	April 15, 1925
14795	10550	W. V. Hastain	To operate auto freight service—Elsinore and San Pedro, Wilmington, Long Beach, Los Angeles, Santa Ana, Riverside, Colton and San Bernardino.	Denied	April 15, 1925
14796	10579	Joseph L. Zerboni	To operate auto truck service—Los Angeles, Hollywood, Sherman, Beverly Hills, Sawtelle and Westgate.	Denied	April 15, 1925
14797	10591	Motor Transit Company	To abandon auto stage line between Los Angeles and San Diego via Long Beach.	Granted	April 15, 1925
14798	10620	Motor Coach Company	To extend auto stage lines from intersection of Anaheim Road and Harbor Boulevard to junction of Weston Street and Narbonne Avenue in Lomita.	Granted	April 15, 1925
14799	10666	C. H. Pennoyer (Descanso and Alpine Stage Line)	To operate auto passenger and express service—San Diego and Resort and intermediate points of Lakeview, Flinn Springs, Alpine, Viejas, Descanso, Pine Valley and Laguna Junction; also between La Mesa and El Cajon and Lakeview.	Granted	April 15, 1925
14800	10723	J. A. Mattos	To operate auto stage service between Redding and Bully Hill and intermediate points.	Granted	April 15, 1925
14804	10994	Benjamin Stevens and John D. Weast	Former to sell and latter to purchase an auto passenger and freight line—Montgomery Creek and Big Bend.	Denied	April 15, 1925
14818	9664	A. W. Purdy	To operate auto truck service—Los Angeles and Fullerton, Brea and La Habra.	Granted	April 15, 1925
14826	11013	M. O. Duncan and Forest F. Sullivan	Former to sell and latter to purchase one-half interest in auto freight line—Los Angeles and Lancaster.	Granted	April 20, 1925
14837	11017	A. Dunham and West Coast Transit Company	Former to sell and latter to purchase auto passenger, baggage and package service between Santa Rosa and Healdsburg and intermediate points.	Granted	April 20, 1925
14839	9724	Long Beach Transfer and Warehouse Company	To abandon general freight transportation service between Los Angeles and Long Beach and to transport limited commodities only.	Granted	April 22, 1925
14844	11003	Ida C. Smith, executrix of estate of C. A. Lemm	To sell and transfer to Green & Green an auto stage service between Blairsdon and Sierra City and intermediate points.	Granted	April 25, 1925
14855	11028	William Giminiani and Paul Derkum	Former to sell to latter an auto passenger and express line between Bakersfield and Buttonwillow and also Bakersfield and Arvin.	Granted	April 25, 1925
14856	11031	G. Lawrence Ritchie and W. W. Wood	Former to sell and latter to purchase one-half interest in auto stage and freight line—San Diego and Oak Grove.	Granted	April 29, 1925
14857	11032	A. E. Blanc and B. H. Christian	To sell to G. Lawrence Ritchie and W. W. Wood an auto freight line between San Diego and Julian and intermediate points in San Diego County.	Granted	April 29, 1925

14884	10448	(Stimson Transit Company..... Los Angeles Railway Corporation..... Security Van and Storage Company, Inc.....	To operate passenger buses between Huntington Park and Los Angeles.....	May 7, 1925	Granted
14902	10305	Valley Transit Company and California Transit Company..... George B. Childs (Peninsula Parcel Delivery).....	To operate motor buses between Huntington Park and Los Angeles..... To operate auto truck line—Los Angeles and Venice, Ocean Park and Santa Monica and intermediate points.....	May 7, 1925	Denied
14907	10927	Chas. B. Smith.....	To abandon auto service between Tulare and Porterville, via Lindsay.....	May 12, 1925	Granted
14908	11006	E. L. Johnson and George L. Harper.....	To sell and transfer operative rights for auto stage service between San Francisco and San Jose to J. E. Casey.....	May 12, 1925	Granted
14909	11040	T. H. Simas and B. S. Albush.....	To sell to F. A. Minkner and Ray O. Holloway an auto stage service—Porterville and Camp Nelson.....	May 12, 1925	Granted
14911	11052	Shasta Transit Company and Mt. Lassen Transit Company.....	To operate auto passenger and freight service—Goffs and Gatchell and intermediate points.....	May 12, 1925	Granted
14912	11062	California Transit Company.....	Former to sell to latter an auto passenger and package line between Placerville and Frio Grande, El Dorado County.....	May 12, 1925	Granted
14916	11087		To publish through routes and joint fares between Sacramento and Westwood, and Redding and Westwood.....	May 12, 1925	Granted
14917	11004		To re-route portion of service between Oakland and Stockton via Pleasanton, and between Vallejo and Sacramento via Suisun, and lease from S. F. B. Morse operative rights between Pacific Grove and Merced (Preliminary Order).....	May 12, 1925	Granted
14928	10932	E. Erickson and J. J. Bartle.....	To operate auto stage line between Susanville, Lassen County, and McCloud, Siskiyou County, and intermediate points.....	May 12, 1925	Granted
14951	11107	N. A. Webb, F. S. Hendricks and D. E. Hamilton (Pasadena-Ocean Park Stage Line).....	To sell to T. C. Gillespie an auto stage line—Pasadena and Ocean Park.....	May 12, 1925	Granted
14971	11139	Compton Transportation Company and Pacific Electric Railway Company.....	Former to sell to latter auto stage line—Long Beach and Venice and intermediate points.....	May 14, 1925	Granted
14983	11154	W. H. Miller and West Coast Transit Company.....	Former to sell to latter auto stage service—Ukiah and Upper Lake and intermediate points.....	May 21, 1925	Granted
14988	10202	Raymond J. Adams and Harry A. Adams.....	To operate auto truck service—Salinas and Santa Cruz and intermediate points via Castroville, Moss Landing, Watsonville, Freedom, Aptos and Soquel.....	May 23, 1925	Granted
14989	10706	Lewis A. Monroe, as joint agent for Donovan Transportation Company and Rice Transportation Company, Inc.....	To operate auto truck service—Salinas and Santa Cruz and intermediate points via Castroville, Moss Landing, Watsonville, Freedom, Aptos and Soquel.....	May 28, 1925	Granted
15000	10726	Donovan Transportation Company and Rice Transportation Company, Inc.....	To establish through joint freight rates and routes in Los Angeles County.....	June 3, 1925	Granted
15001	10803	San Joaquin Valley Transportation Company, F. M. Hodge, et al.....	Former to lease to latter operative rights between San Pedro and Santa Monica.....	June 3, 1925	Granted
15002	10809	John H. Eagle.....	To readjust minimum freight rate applying between Los Angeles, Fresno and intermediate points.....	June 3, 1925	Granted
15004	10831	Edward C. Woodworth.....	To operate auto truck service—Los Angeles and Randeburg, Johannesburg, Odick, Inn City, Hampton and Atolia.....	June 3, 1925	Granted
	10780	H. P. and G. B. Lauritzen and N. P. Bush (Richmond Navigation and Improvement Company).....	To operate express and drayage service—San Francisco and Richmond, Stege and San Pablo.....	June 3, 1925	Denied
			To operate auto freight service—boat-line terminal at Richmond and San Pablo, Stege and El Cerrito and between San Francisco and Richmond, San Pablo, Stege and El Cerrito via Southern Pacific's San Francisco-Richmond automobile ferry.....	June 3, 1925	Granted

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceeding	Action	Date
15005	10894	Lewis A. Monroe, Joint Agent for Borderland Express and Pioneer Truck and Transfer Company	To establish joint class and commodity rates between San Diego and Brawley, Imperial, Heber and Calexico via El Centro	Granted	June 3, 1925
15006	11015	C. E. Cornwall	To operate auto freight service—Colton to Los Angeles	Denied	June 3, 1925
15008	11138	J. F. Malony and George H. Gilson (San Jose-Big Basin and Santa Cruz Stage Line and San Jose-Agnew and Alviso Stage Line) and Louis Klein, J. F. Malony and George H. Gilson (Los Gatos-San Jose Bus Line)	To transfer and sell operative rights to Peerless Stages, Inc.	Granted	June 3, 1925
15060	10978	Brookway Land and Water Company	To operate auto stage line—Truckee and Brockway	Denied	June 15, 1925
15061	10987	Lake Tahoe Railway and Transportation Company	To operate auto stage line—Tahoe Tavern and Brockway and intermediate points of Tahoe City, Cornelius Bay and Tahoe Vista	Granted	June 15, 1925
15066	11182	Calistoga and Clear Lake Stage Company	To operate auto stage service—Lower Lake and Clear Lake Park and intermediate points	Granted	June 15, 1925
15068	11192	O. O. Davis and Louis T. Fletcher and Elmer Tremble	Former to sell to two latter auto truck service—Los Angeles, La Habra, Fullerton and Anaheim	Granted	June 15, 1925
15069	11095	David E. Covey	To operate auto stage service—Redding and Fern and intermediate points via Palo Cedro, Millville, Forks of Road, Whitmore and Kilahe	Granted	June 15, 1925
15099	11007	Mt. Lassen Transit Company	To operate auto stage service—Mineral, Tehama County, and point three miles distant therefrom, as part of service between Mineral and Lake Helen and intermediate points	Granted	June 25, 1925
15100	10973	Los Angeles Railway Corporation	To operate motor coach service between intersection of Fifty-fourth Street and Mesa Drive, Los Angeles, and Commercial and Queen Streets, City of Inglewood	Granted	June 25, 1925
15101	11162	C. H. Pennoyer	To operate auto stage service—Descanso and point on northerly line of Lake Cuyamaca, and intermediate points via Oakzanita and Green Valley	Granted	June 25, 1925
15102	11216	Stoddard Milling Company	To operate auto freight service—Napa City and Napa Soda Springs and intermediate points	Granted	June 25, 1925
15104	11233	Ervin and Clarence Georgeson	To sell to James Orr and J. W. Stoff auto passenger and freight line—San Pasqual and San Diego	Granted	June 25, 1925
15105	11234	Pauly and Stinchfield	To operate auto stage service—Swaine's Camp and Bucks Ranch, Plumas County	Granted	June 25, 1925
15106	11241	W. R. Webb and G. W. Barnes	Former to sell to latter auto passenger line—Stephenson Avenue car line and Bandini	Granted	June 25, 1925
15107	11247	P. E. Tibbetts and G. I. Reis	Former to sell to latter auto truck line—Los Angeles, Newport Beach and intermediate points	Granted	June 25, 1925
15127	10720	Nick Gombos	To operate freight and express service—Los Angeles and Bakersfield	Granted	July 3, 1925
15142	10963	C. B. Locklin (Sacramento Motor Transport)	To operate motor truck service—Sacramento, Vallejo, Crockett and intermediate points	Granted	July 3, 1925
15145	10957	C. B. Locklin (New Motor Transport)	To operate motor truck line—Sacramento, Clarksville, Placerville, State Line, Tullac and intermediate points	Denied	July 7, 1925

15146	11109	J. O. Bray (Fresno Lanare Truck Line)-----	To operate freight service—Fresno and Raisin City as extension of present service—Fresno and Lanare, including intermediate points of Caruthers, Camden and Riverdale.	Denied	July 7, 1925
15151	11281	J. L. Martin and G. E. Rosebrook-----	To sell to Ernest R. Blue an auto passenger line—Chico, Butte County, and Hamilton City, Glenn County.	Granted	July 7, 1925
15159	11277	G. F. Albright and R. E. O'Brien-----	Former to sell to latter interest in auto freight line—Stockton and Oakdale.	Granted	July 8, 1925
15178	11362	E. R. Michael and George F. Weisner-----	To sell and John S. Zuckerman to purchase an auto passenger and express line—Oakdale and Modesto.	Granted	July 14, 1925
15254	11167	Pat Silvestri and Nick Buinda-----	To operate auto freight service—Colima and San Francisco, Oakland, Hayward and San Leandro as extension of existing service.	Granted	Aug. 4, 1925
15256	11525	W. R. Conlin and Edward A. Jones-----	Former to sell to latter an auto passenger and freight line—Nevada City and Marysville.	Granted	Aug. 4, 1925
15264	11436	Packard Stage Line and Pickwick Stages System.	Former to lease to latter certain operative rights between Los Angeles and Bakersfield and intermediate points, via Mojave and Tehachapi.	Granted	Aug. 6, 1925
15268	11449	C. S. Drake-----	To operate motor bus service—City of Stockton, San Joaquin County, and "The Grove," San Joaquin County.	Granted	Aug. 7, 1925
15270	10734	Colberg and Colberg (Central Transit Company)	To operate auto passenger and express service—Stockton and Terminus and Stockton and Brentwood and other points.	Granted	Aug. 10, 1925
15271	11416	Mary Frances Stanley and E. P. Tallon-----	To sell and J. C. Orvis to purchase auto freight line—Los Angeles and Compton.	Granted	Aug. 10, 1925
15279	11508	R. W. Lavery-----	To sell to Sam Newton and Thos. Biggart an auto freight line—San Jose and Hollister.	Granted	Aug. 12, 1925
15285	11562	Seth U. Bergevin and George W. Koenig-----	Former to sell and latter to purchase auto freight line—Markleeville, California and Minden, Nevada.	Granted	Aug. 13, 1925
15287	11057	Robert V. Hardie-----	To operate auto freight truck service—Los Angeles Harbor district and Glendale, Eagle Rock and Burbank.	Denied	Aug. 13, 1925
15288	11125	C. H. Warrington-----	To operate auto truck service for transportation of livestock only between Union Stock Yards, Los Angeles County, and San Bernardino, San Fernando, Lankershim, Anaheim, Talbert, Bellflower, Playa del Rey, Venice, etc.		
15289	11231	J. R. Tedrick-----	To operate auto passenger service—Whittier and Barton Flats.	Granted	Aug. 13, 1925
15298	11345	Pickwick Stages, Inc., and Pacific Coast Motor Coach Company-----	To establish joint passenger fares.	Denied	Aug. 13, 1925
15299	10781	Lewis A. Monroe, Agent for Murieta Valley Motor Freight Line, Pickwick Stages, Inc., Lessee-----		Granted	Aug. 15, 1925
15322	11557	H. H. Webb, P. H. Webb and O. E. Rowland-----	To amend paragraph A, rule L, Murieta Line Freight Tariff C. R. C. No. 4, re pickup and delivery service.	Granted	Aug. 15, 1925
15326	11594	Florencia Edelblute, administratrix for estate of John Lemuel Edelblute-----	To sell and Security Van and Storage Company to purchase auto truck line—Los Angeles and Santa Monica and intermediate points.	Granted	Aug. 19, 1925
15327	10946	Harry E. Fishbaugh-----	To sell and Soren Sorensen to purchase auto freight service between Santa Barbara and Santa Ynez and intermediate points.	Granted	Aug. 21, 1925
			To operate auto truck service for transporting creamery and dairy products—Oxnard and Los Angeles and Santa Monica.	Denied	Aug. 21, 1925

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
14512	10741	Southern Pacific Company (City of Imperial)	"M" Street	Granted	Jan. 30, 1925
14514	10746	Southern Pacific Company (City of Stockton)	Van Buren and Market Streets	Granted	Jan. 30, 1925
14515	10760	Pacific Electric Railway Company (City of Seal Beach)	Eleventh Street (pedestrian)	Granted	Jan. 30, 1925
14517	10771	Southern Pacific Company (City of San Leandro)	Alvarado Street	Granted	Jan. 30, 1925
14518	10772	Southern Pacific Company (City of Los Angeles, Thierard Station)	Young Street	Granted	Feb. 5, 1925
14536	10766	Pacific Electric Railway Company (City of Long Beach)	W. Seventh Street	Granted	Feb. 8, 1925
14547	10749	Southern Pacific Company (vicinity of Calexico)	W. Railroad Boulevard	Granted	Feb. 9, 1925
14549	10797	The Atchison, Topeka and Santa Fe Railway Company (Town of Alwood)	Willow Street	Granted	Feb. 9, 1925
14550	10807	Western Pacific Railroad Company (City of Sacramento)	Public alley in block bounded by "D," "E," Nineteenth and Twentieth Streets	Granted	Feb. 9, 1925
14551	10810	Southern Pacific Company (City of Whittier)	Hadley Street	Granted	Feb. 9, 1925
14556	10751	The Atchison, Topeka and Santa Fe Railway Company (City of Vernon)	Twenty-sixth Street	Granted	Feb. 11, 1925
14557	10752	The Atchison, Topeka and Santa Fe Railway Company (City of Vernon)	Twenty-sixth Street	Granted	Feb. 11, 1925
14559	10823	Southern Pacific Company (Town of Redwood City)	Monroe Avenue and Franklin Street	Granted	Feb. 11, 1925
14564	10544	City of Venice (Pacific Electric Railway Company)	Mildred Avenue	Granted	Feb. 14, 1925
14569	10459	City of El Monte (Southern Pacific Company)	Central Avenue	Granted	Feb. 17, 1925
14580	10836	Southern Pacific Company (County of Lassen)	Vicinity of Wendel	Granted	Feb. 18, 1925
14581	10835	Southern Pacific Company (San Joaquin County)	Vicinity of Woodbridge, Augusta Street	Granted	Feb. 18, 1925
14632	10739	Pacific Electric Railway Company (City of Long Beach)	W. American Avenue	Granted	Mar. 5, 1925
14633	10744	Los Angeles and Salt Lake Railroad Company and The Atchison, Topeka and Santa Fe Railway Company (County of Los Angeles)	E. Twenty-sixth Street and Holabird Avenue	Granted	Mar. 5, 1925
14634	10792	County of Fresno (The Atchison, Topeka and Santa Fe Railway Company)	Van Ness Boulevard	Granted	Mar. 5, 1925
14635	10811	Pacific Electric Railway Company (City of Los Angeles)	Romaine Avenue	Granted	Mar. 5, 1925
14636	10871	Pacific Electric Railway Company (City of Torrance)	Border Avenue and Two Hundred Twenty-second Street	Granted	Mar. 5, 1925
14643	10467	City of San Bernardino (The Atchison, Topeka and Santa Fe Railway Company)	Sixteenth Street	Denied	Mar. 10, 1925
14664	10892	Southern Pacific Company (City of Oakland)	Railroad Avenue, near Elmhurst station	Granted	Mar. 13, 1925
14670	10910	Southern Pacific Company (City of San Jose)	Third Street	Granted	Mar. 16, 1925
14671	10911	Southern Pacific Company (Town of Redwood City)	Chestnut Street	Granted	Mar. 16, 1925
14672	10867	Southern Pacific Company (Town of Mountain View)	Front Street	Granted	Mar. 16, 1925
14678	10908	Sacramento Northern Railroad (City of Sacramento)	"C" Street and Eighteenth Street	Granted	Mar. 17, 1925
14686	10789	Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company (City of Oakland)	Twenty-sixth and Wood Streets	Granted	Mar. 19, 1925
14688	10929	Western Pacific Railroad Company (City of Oakland)	Derby Avenue	Granted	Mar. 24, 1925
14690	10714	San Diego and Arizona Railway Company (City of National City)	Ninth Avenue	Granted	Mar. 24, 1925
14693	10813	County of Stanislaus (Southern Pacific Company)	Westley, one mile northwest from	Granted	Mar. 24, 1925
14695	10845	Fresno Interurban Railway Company (County of Fresno)	Blackstone Avenue and McKinley Avenue	Granted	Mar. 24, 1925
14697	10865	Pacific Electric Railway Company (City of Los Angeles)	One Hundredth Avenue and Santa Monica Boulevard	Granted	Mar. 24, 1925
14698	10897	The Atchison, Topeka and Santa Fe Railway Company (County of Riverside)	Alberhill	Granted	Mar. 24, 1925
14699	10903	The Atchison, Topeka and Santa Fe Railway Company (City of San Diego)	Nutmeg Street and California Street	Granted	Mar. 24, 1925
14700	10920	Southern Pacific Company (City of Oakland)	Eighteenth Street and Campbell Street	Granted	Mar. 24, 1925

14701	10926	The Atchison, Topeka and Santa Fe Railway Company (City of Oakland)	Wood Street	Granted	Mar. 24, 1925
14705	10925	City of Redlands (Southern Pacific Company)	Texas Street	Granted	Mar. 25, 1925
14706	10922	Western Pacific Railroad Company (City of Oakland)	Third Street, Adelino and Magnolia Streets	Granted	Mar. 25, 1925
14710	10918	Southern Pacific Company (City of Berkeley)	Harrison, Eighth and Ninth Streets	Granted	Mar. 27, 1925
14718	10941	Southern Pacific Company (City and County of San Francisco)	Yosemite Avenue, Mendel Street, etc.	Granted	Mar. 30, 1925
14721	10941	Southern Pacific Company (City of Colton)	Tenth, Eleventh "H," and "I," Streets	Granted	Apr. 4, 1925
14732	10945	Southern Pacific Company (City of Oakland)	First and Oak Streets	Granted	Apr. 4, 1925
14743	10953	Southern Pacific Company (City and County of San Francisco)	Sixteenth and Wisconsin Streets	Granted	Apr. 4, 1925
14744	10959	Southern Pacific Company (City of Vernon)	Center Street	Granted	Apr. 4, 1925
14758	10998	The Atchison, Topeka and Santa Fe Railway Company (County of Fresno)	Blackstone and McKinley Avenues	Granted	Apr. 20, 1925
14820	10999	The Atchison, Topeka and Santa Fe Railway Company (Town of Emeryville)	Hollis Street	Granted	Apr. 20, 1925
14824	10944	County of Stanislaus (The Atchison, Topeka and Santa Fe Railway Company)	Hughson, about one-half mile southeast of	Granted	Apr. 22, 1925
14836	10995	Los Angeles and Salt Lake Railroad Company (City of Pasadena)	Waverly Drive, Elevado Drive and Grove Street	Granted	Apr. 22, 1925
14841	10821	County of Kern (The Atchison, Topeka and Santa Fe Railway Company)	Town of Muroc	Granted	Apr. 25, 1925
14845	10873	Stockton Electric Railroad Company and Central California Traction Company (City of Stockton)	"B" and E Main Streets	Granted	Apr. 25, 1925
14858	10822	City of Kern (Southern Pacific Railroad Company)	Section 35, T. 29 S., R. 28 E., M. D. B. and M.	Granted	Apr. 29, 1925
14859	10833	City of Bakersfield (Southern Pacific Company)	Thirty-fourth Street near Union Avenue	Granted	Apr. 29, 1925
14862	11001	Southern Pacific Company (vicinity of Santa Rosa)	Humboldt Street	Granted	Apr. 29, 1925
14863	11011	The Atchison, Topeka and Santa Fe Railway Company (County of Tulare)	North Dinuba	Granted	Apr. 29, 1925
14864	11012	The Atchison, Topeka and Santa Fe Railway Company (City of San Diego)	"A," Street	Granted	Apr. 29, 1925
14865	11022	County of Butte (Sacramento River Railroad)	Near Chico	Granted	Apr. 29, 1925
14870	11044	Southern Pacific Company (County of Los Angeles)	Seminole Avenue, vicinity of Tweedy Station.	Granted	May 1, 1925
14876	11047	Pacific Electric Railway Company (City of Long Beach)	Daisy Avenue and Cayles Avenue	Granted	May 1, 1925
14880	10923	County of Kern (Southern Pacific Railroad)	Sec. 4, T. 11 N., R. 12 W., S. B. B. and M.	Granted	May 1, 1925
14889	10923	California Western Railroad and Navigation Company (City of Fort Bragg)	Spruce, Elm and Manzanita Streets	Granted	May 7, 1925
14890	11021	The Atchison, Topeka and Santa Fe Railway Company (City of National City)	Fourteenth, Fifteenth, Sixteenth, Seventeenth and Eighteenth Streets and Ninth Avenue	Granted	May 7, 1925
14891	11034		"K," Street	Granted	May 7, 1925
14892	11050	Southern Pacific Company (City of Brawley)	Aurumis Street	Granted	May 7, 1925
14893	11054	The Western Pacific Railroad Company (City of San Jose and County of Santa Clara)	Wood Street and Twenty-second Street	Granted	May 7, 1925
14894	11055	The Atchison, Topeka and Santa Fe Railway Company (City of Oakland)	Main Street, vicinity of Westmorland	Granted	May 7, 1925
14895	11058	Southern Pacific Company (County of Imperial)	Visitation Avenue near Bay Shore Station	Granted	May 7, 1925
14896	11060	Southern Pacific Company (City and County of San Francisco)	Public alley (temporary)	Granted	May 7, 1925
14897	11063	City of South Gate (Southern Pacific Company)	Twelfth Street	Granted	May 12, 1925
14906	10900	City of Santa Paula (Southern Pacific Company)	Avenue 33	Granted	May 12, 1925
14915	11067	The Atchison, Topeka and Santa Fe Railway Company (City of Los Angeles)	Mission and Army Streets	Granted	May 14, 1925
14916	11066	The Western Pacific Railroad Company (City and County of San Francisco)	Pocahontas-Marysville highway, vicinity of	Granted	May 14, 1925
14934	11066	Southern Pacific Company (County of Placer)	Clayton Avenue	Granted	May 21, 1925
14956	11103	The Western Pacific Railroad Company (City of Oakland)	"B," Street	Granted	May 21, 1925
14957	11104	Sacramento Northern Railroad (Town of Yuba City)	North Street	Granted	May 21, 1925
14958	11113	Southern Pacific Company (Town of Hollister)	Seventh Street and portion of Channel Street	Granted	May 21, 1925
14959	11114	Southern Pacific Company (City and County of San Francisco)	Fifteenth, Fourteenth, Seventeenth, Sixteenth, and Cyprian Streets	Granted	May 21, 1925
14972	11131	Southern Pacific Company (City of Oakland)	Key System Transit Company at Sixteenth and Cypress Streets	Granted	May 21, 1925
14976	10904	County of Riverside (Southern Pacific Company)	Section 26, T. 6 S., R. 8 E., etc.	Granted	May 23, 1925

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
14977	10965	County of Riverside (Southern Pacific Company)	Sections 7 and 8, T. 5 S., R. 7 E., S. B. B. and M.	Granted	May 27, 1925
14978	11128	Southern Pacific Company (City of Berkeley)	Snyder Avenue	Granted	May 27, 1925
14985	11119	Petaluma and Santa Rosa Railroad Company (City of Santa Rosa)	Boyd Street	Granted	May 28, 1925
14992	11150	Sacramento Northern Railroad (Chico Veto)	Block 56, County of Butte	Granted	June 1, 1925
14994	10889	City of Sacramento (The Western Pacific Railroad Company)	Larkin Way and Second Avenue	Granted	June 3, 1925
15010	10820	County of Kern (Southern Pacific Railroad)	Between Sections 14 and 15, T. 28 S., etc.	Granted	June 3, 1925
15019	10775	Sacramento County, Board of Supervisors of (Southern Pacific Company)	Approximately 4700 feet southwest of Walerga station	Granted	June 6, 1925
15020	10872	City of Venice (Pacific Electric Railway Company)	Horizon Avenue	Granted	June 6, 1925
15027	11170	Southern Pacific Company (City of Santa Barbara)	Quintones Street	Granted	June 6, 1925
15028	10819	County of Tehama (Southern Pacific Company)	Section 15, T. 29 N., R. 4 W., M. D. B. and M.	Granted	June 6, 1925
15029	11145	The Western Pacific Railroad Company (near Ortega, San Joaquin County)	McKinley Avenue	Granted	June 6, 1925
15031	11177	The Atchison, Topeka and Santa Fe Railway Company (County of Los Angeles)	Slauson Avenue	Granted	June 6, 1925
15040	11217	Southern Pacific Company (City of Sacramento)	North B Street	Granted	June 12, 1925
15041	11073	Southern Pacific Company (County of Tulare)	Vicinity of Visalia, County Road No. 446	Granted	June 13, 1925
15043	11191	Pacific Electric Railway Company (City of Long Beach)	Daisy Avenue between Fifteenth and Sixteenth Streets	Granted	June 13, 1925
15067	11187	City of Vernon (Southern Pacific Company)	Fifty-first and Alameda Streets (temporary)	Granted	June 13, 1925
15077	11164	City of Alhambra (Pacific Electric Railway Company)	Huntington Drive and Main Street	Granted	June 15, 1925
15078	10985	Yosemite Valley Railroad Company and Merced Irrigation District	Public road in Town of Merced Falls	Granted	June 20, 1925
15086	11256	Southern Pacific Company (County of Los Angeles)	Vicinity of Aurant Station, McKee Street	Granted	June 22, 1925
15091	11127	City of San Marino (Pacific Electric Railway Company)	Huntington Drive	Granted	June 22, 1925
15097	11171	Southern Pacific Company (County of San Mateo)	Vicinity of San Carlos, county road	Granted	June 24, 1925
15118	11135	City of Glendale (Pacific Electric Railway Company)	Kenilworth Avenue	Granted	June 27, 1925
15130	11322	Southern Pacific Company (City of Sacramento)	N. "B" Street	Granted	July 3, 1925
15131	11084	Pacific Electric Railway Company (City of Long Beach)	Antonio Drive, Tivoli Drive, Ravenna Drive and Apian Way	Granted	July 3, 1925
15132	11272	The Western Pacific Railroad Company (City of Oakland)	Oak Street and portion of Third Street	Granted	July 3, 1925
15139	10870	County of Stanislaus (The Atchison, Topeka and Santa Fe Railway Company)	Three-fourths of mile southeast of Empire	Denied	July 3, 1925
15152	10866	County of Tulare and City of Tulare (The Atchison, Topeka and Santa Fe Railway Company)	Section 2, T. 20 S., R. 24 E., M. D. B. and M.	Granted	July 7, 1925
15158	11369	Southern Pacific Company (City of Sacramento)	N Street and O Street on Front Street	Granted	July 7, 1925
15161	11346	Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company (City of Oakland)	Wood Street	Granted	July 9, 1925
15162	11153	San Diego County (The Atchison, Topeka and Santa Fe Railway Company)	Montgomery Street (Cardiff)	Granted	July 9, 1925
15163	11035	Board of Supervisors of County of Orange (The Atchison, Topeka and Santa Fe Railway Company)	Public highway at Capistrano Beach	Granted	July 9, 1925
15167	11382	Los Angeles and Salt Lake Railroad Company (City of Los Angeles)	Avenue 21 and Humboldt Street	Granted	July 10, 1925
15170	11353	Southern Pacific Company (City and County of San Francisco)	Berry Street	Granted	July 13, 1925
15171	11348	The Atchison, Topeka and Santa Fe Railway Company (City of Stockton)	Hazel Street	Granted	July 13, 1925
15172	11212	Southern Pacific Company (County of Nevada)	Vicinity of Crystal Lake Station	Granted	July 13, 1925

CALIFORNIA RAILROAD COMMISSION DECISIONS.

15173	Los Angeles County Flood Control District (Pacific Electric Railway Company)	11350	Near Morton Station	Granted	July 18, 1925
15174	San Francisco, Napa and Calistoga Railway (City of Vallejo)	11172	Virginia, Georgia Streets and Yolo Avenue	Granted	July 13, 1925
15179	Southern Pacific Company (City of Tulare)	11400	Bush Street	Granted	July 14, 1925
15180	Southern Pacific Company (County of Sutter)	11271	Eight county roads in Reclamation District No. 1660	Granted	July 14, 1925
15181	Southern Pacific Company (County of Tulare)	11387	Vicinity of Caplin	Granted	July 14, 1925
15188	The Achison, Topeka and Santa Fe Railway Company (City of San Bernardino)	11408	"G" Street	Granted	July 16, 1925
15189	Southern Pacific Company (City of Sacramento)	11418	Portion of "R" and across Twenty-third Street	Granted	July 16, 1925
10686	City of Bakersfield (Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company)	11102	California Avenue	Granted	July 18, 1925
15195	Board of Supervisors of County of Kern (Asphalt Branch of Southern Pacific Company)	11222	Vermont Avenue and Ninety-sixth Street	Granted	July 21, 1925
15198	County of Los Angeles (Los Angeles Railway Company)	11429	Santa Cruz-Davenport County Road	Granted	July 22, 1925
15204	County of Santa Cruz (Southern Pacific Company)	11377	Second Street Extension	Granted	July 23, 1925
15209	Southern Pacific Company (City of Sacramento)	11438	Portions of "I," Eleventh and Twelfth Streets	Granted	July 23, 1925
15210	Sacramento Northern Railroad (City of Sacramento)	11342	Mill Street and "N" and "O" Streets	Granted	July 24, 1925
15213	The Achison, Topeka and Santa Fe Railway Company (City of Colton and County of San Bernardino)	11427	Central Avenue, Alameda County	Granted	July 24, 1925
15214	Southern Pacific Company (Town of Newark)	11419	Mill Street	Granted	July 30, 1925
15227	Southern Pacific Company (City of San Bernardino)	11463	Ocean Avenue and Seaside Boulevard	Granted	July 31, 1925
15234	Los Angeles and Salt Lake Railroad Company (City of Long Beach)	11470	County Road near Exeter	Granted	July 31, 1925
15236	The Achison, Topeka and Santa Fe Railway Company (County of Tulare)	11475	Webster Street and Third Street	Granted	July 31, 1925
15237	Western Pacific Railroad Company (City of Oakland)	11481	Fifth and Brannan Streets	Granted	July 31, 1925
15238	Southern Pacific Company (City and County of San Francisco)	11343	Marine Avenue between C and D Streets	Granted	July 31, 1925
15243	Pacific Electric Railway Company (City of Los Angeles)	11508	Macy Street (temporary crossing)	Granted	July 31, 1925
15244	Los Angeles, Topeka and Santa Fe Railway Company (City of Bakersfield)	11500	P, Q, R and S Streets	Granted	July 31, 1925
15245	The Achison, Topeka and Santa Fe Railway Company (City of Los Angeles)	10991	First Street in Town of Ripon	Granted	July 31, 1925
15247	San Joaquin County (Southern Pacific Company)	11018	At Castle	Granted	Aug. 3, 1925
15248	San Joaquin County (Southern Pacific Company)	11018	County Road No. 1530	Granted	Aug. 3, 1925
15249	Southern Pacific Company (Town of Livermore)	11501	Prospect Avenue	Granted	Aug. 6, 1925
15265	County of Los Angeles (Pacific Electric Railway Company)	11249	State Highway, vicinity of Cordelia	Granted	Aug. 7, 1925
15267	Southern Pacific Company (County of Solano)	11529	California Street	Granted	Aug. 10, 1925
15277	The Achison, Topeka and Santa Fe Railway Company (City of Pasadena)	11513	About one-fourth mile east of Riverbank	Granted	Aug. 12, 1925
15280	County of Stanislaus (The Achison, Topeka and Santa Fe Railway Company)	11439	Three county roads, vicinity of Valley Springs	Granted	Aug. 13, 1925
15291	Southern Pacific Company (County of Calaveras)	11444	Kirkham and Twenty-sixth Streets, and Twenty-fourth and Forty-ninth Avenues	Granted	Aug. 13, 1925
15292	Southern Pacific Company (City of Oakland)	11473	N Street	Granted	Aug. 13, 1925
15293	Southern Pacific Company (City of Oakland)	11510	Second Street (Corbin Station)	Granted	Aug. 13, 1925
15294	San Diego and Arizona Railway Company (San Diego)	11520	Venice Boulevard	Granted	Aug. 18, 1925
15295	Southern Pacific Company (City of Berkeley)	11558	First Street between D and E Streets	Granted	Aug. 18, 1925
15296	City of Los Angeles and Pacific Electric Railway Company	11472	Wilmingon-San Pedro Road	Granted	Aug. 18, 1925
15299	Petaluma and Santa Rosa Railroad Company (City of Petaluma)	11509	Twenty-sixth Street between Magnolia and Union Streets	Granted	Aug. 25, 1925
15310	Pacific Electric Railway Company (City of Los Angeles)	11531	Portion of "R" Street	Granted	Aug. 25, 1925
15330	Pacific Electric Railway Company (City of Los Angeles)	11533		Granted	Aug. 25, 1925
15331	Key System Transit Company (City of Oakland)	11559		Granted	Aug. 25, 1925
15332	Southern Pacific Company (City of Sacramento)	11583		Granted	Aug. 25, 1925

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceeding	Date
14513 14519 14520	10742 10425 C1698	Southern Pacific Company E. V. Rideout Railroad Commission, investigation of	Authorizing discontinuance of ticket agency at North Vallejo Station, Solano County— Supplemental order amending Decision No. 14296—rates for operation of vessels. Great Western Power Company—extension of time to comply with requirements of Chapters 499-600.	Jan. 30, 1925 Jan. 30, 1925 Jan. 30, 1925
14521	C2022 9879 9898 10058	J. W. Houk and J. H. Smith. George A. Scott. W. C. Lawrence Ira N. Short.	Order denying rehearing	Jan. 30, 1925
14522 14523 14532	9401 9648 10631	Siskiyou County Board of Supervisors Southern California Telephone Company William Peek and Herbert E. Culler (West Coast Water System)	Order of rescission and dismissal—grade crossing Order denying rehearing—rates	Jan. 30, 1925 Jan. 31, 1925
14540	C1990	Richfield Oil Company vs. Sunset Railway Com- pany	Authorized to transfer water distributing system to City of Manhattan Beach.	Feb. 5, 1925
14552 14553 14555 14558	10260 4859 10562 10777	Southern Home Telephone Company E. L. Askin. James Melver, Jr. Inglewood Water Company	Order denying petition to reconsider and dismiss complaint Supplemental order modifying Decision No. 13866, bond issue Supplemental order revoking and annulling certificate granted in Decision No. 6651 Supplemental order amending Decision No. 14224—stage service Authorized to transfer to Board of Public Service Commissioners of City of Los Angeles certain cast iron distribution pipe system.	Feb. 5, 1925 Feb. 9, 1925 Feb. 9, 1925 Feb. 11, 1925
14561 14571 14573 14574	9967 10825 10577 C1698	San Joaquin Light and Power Corporation Ernest T. Minney and East Bay Water Company Bear Valley Utility Company Railroad Commission, investigation of	Second supplemental order amending Dec's on No. 13441, stock Former authorized to transfer to latter public utility water system in City of Oakland First supplemental order amending Decision No. 14329 California Telephone and Light Company—extension of time to comply with require- ments of Chapter 499-600.	Feb. 11, 1925 Feb. 13, 1925 Feb. 17, 1925 Feb. 17, 1925
14575 14576	9333 10611	Centerville Water Company Southern California Edison Company	Supplemental order authorizing use of proceeds from sale of bonds Supplemental order authorizing use of proceeds from sale of stock	Feb. 17, 1925 Feb. 17, 1925
14582	9478 C2034	Sutter-Butte Canal Company Commission's investigation into Sutter-Butte Canal Company	Order denying rehearing	Feb. 20, 1925
14583 14587	9478 C2034 C2067	Sutter-Butte Canal Company Commission's investigation into Sutter-Butte Canal Company Rosemead Improvement Association vs. Southern Pacific Company	First supplemental order accepting rules and regulations for filing	Feb. 20, 1925
14593	10596	Moorpark Farmers' Water Company	Ordering defendant company to remove brush at Rosemead Avenue grade crossing in Rosemead, Los Angeles County First supplemental order modifying Decision No. 14320 so as to execute mortgage or deed of trust.	Feb. 24, 1925
14603 14607 14608	5097 10608 10735	San Francisco-Richmond Ferry Company Southern Pacific Company Pacific Electric Railway Company	Seventh supplemental order modifying Decision No. 8144, stock Authorizing discontinuance of agency at Herndon station, Fresno County Authorizing sale of portion of Lot A of Subway Terminal Tract, City of Los Angeles, to Subway Terminal Corporation	Feb. 24, 1925 Feb. 26, 1925 Feb. 26, 1925
14609	10804	San Diego and Arizona Railway Company and San Diego Electric Railway Company	Former authorized to lease to latter portion of unused right of way property in City of San Diego	Feb. 26, 1925

CALIFORNIA RAILROAD COMMISSION DECISIONS.

14615	10004	Pinedale Water Company	Modifying and amending Decision No. 13721, re agreement with Sugar Pine Lumber Company and sale of stock.	Feb. 27, 1925
14617	10005	Pinedale Water Company	Authorized to sell that portion of line of railway formerly owned by "California Railway" in City of Oakland, to Southern Pacific Company and to operate jointly on said property	Mar. 3, 1925
14618	10006	Hugh Goodfellow, Warren Olney and W. I. Brock, as trustees, and Key System Transit Company	Revolving and annulling certificate to operate bus line for transportation of school children—Novato and San Rafael	Mar. 3, 1925
14622	10047	Emory E. Gilman (San Rafael Bus Service)	Amending Decision No. 14515	Mar. 3, 1925
14623	10760	Pacific Electric Railway Company	Supplemental order authorizing execution of mortgage or deed of trust as per Decision No. 14604	Mar. 3, 1925
14624	10767	Davies Warehouse Company	Napa Valley Electric Company—extension of time to comply with requirements of Chapter 499-600 (Overhead line construction)	Mar. 3, 1925
14625	C1647	Railroad Commission, Investigation of	Denying petition for modification of order in Decision No. 13630	Mar. 5, 1925
14637	9845	City of Compton	Authorizing use of proceeds from sale of stock—Decision No. 13411	Mar. 10, 1925
14641	9941	Sunland Rural Telephone Company	First supplemental order modifying Decision No. 14562—stock	Mar. 10, 1925
14649	10786	San Joaquin Light and Power Corporation	Third supplemental order authorizing use of proceeds from sale of bonds—Decision No. 13690	Mar. 10, 1925
14650	10126	Port Costa Water Company	Eighth supplemental order amending Decision No. 9620	Mar. 10, 1925
14651	7147	Sacramento Northern Railroad, Sacramento Northern Railway et al.	Authorizing sale of water system serving town of Gardena, Los Angeles County	Mar. 11, 1925
14653	10793	Los Angeles County Water Works	Granting permission to abandon station of Livny, Alameda County	Mar. 11, 1925
14654	10901	Southern Pacific Company	Modifying Decision No. 14624 by second supplemental order	Mar. 11, 1925
14655	10767	Davies Warehouse Company	Granting authority to relocate switch lead track across Hill Street in City of Los Angeles	Mar. 13, 1925
14656	10890	Pacific Electric Railway Company	First supplemental order revoking and annulling certificates—Decisions Nos. 8319 and 11511—auto truck lines	Mar. 13, 1925
14668	6180	E. D. Hall	First supplemental order amending Decision No. 13838—stage line	Mar. 13, 1925
14667	10196	D. B. Maurice (West Coast Transit Co.)	Second supplemental order modifying Decision No. 13788	Mar. 13, 1925
14668	8254	Petaluma Power and Water Company	Order revoking prior order and dismissing application—grade crossing	Mar. 13, 1925
14669	9341	City of Glendale	First supplemental order revoking and annulling certificate granted in Decision No. 7405—stage service in Humboldt County	Mar. 13, 1925
14673	4046	George W. Hufford	First supplemental order revoking and annulling certificate granted in Decision No. 10339—auto stage line	Mar. 16, 1925
14674	7686	Earl M. Negley	Granting certificate to operate electric system to serve town of Covelo, Mendocino County	Mar. 16, 1925
14677	10641	Clyde W. Henry	Authorized to abandon and remove freight shed at Lugo station on Santa Ana line	Mar. 17, 1925
14679	10919	Pacific Electric Railway Company	Authorized to abandon spur track at Buenos Ayres Station on Sawtelle line of Western Division, City of Los Angeles	Mar. 17, 1925
14680	10928	Pacific Electric Railway Company	Supplemental order revoking and annulling certificate granted in Decision No. 10736—auto truck line	Mar. 17, 1925
14681	8058	Harry H. Mourmijan and A. Vasilios	Authorized to abandon waiting station at intersection of Rosecrans and Vermont Avenues in City of Los Angeles	Mar. 17, 1925
14682	10904	Pacific Electric Railway Company	Authorizing discontinuance of operation of non-agency station at Ciprico in San Joaquin County	Mar. 17, 1925
14696	10852	Southern Pacific Company	Southern California Edison Company—extension of time to comply with requirements of Chapters 499-600	Mar. 24, 1925
14702	C1698	Railroad Commission, Investigation of	Ordering defendants to pay to complainant all charges collected in excess of 21½ cents per 100 pounds against 76 carload shipments of gasoline from Wilmington to San	Mar. 24, 1925
14711	C2093	Associated Oil Company vs. The Atchison, Topeka and Santa Fe Railway Company et al.		

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceeding	Date
14712	10801	Southern Pacific Company-----	Authorizing discontinuance of agent at station of Highgrove in Riverside County on Los Angeles Division-----	Mar. 27, 1925
14716	10915	Yreka Railroad Company-----	Authorizing issue of notes not to exceed \$5,150-----	Mar. 28, 1925
14719	C2092	Coast Rock and Gravel Company vs. Southern Pacific Company et al-----	Ordering defendant companies to refund to complainant all charges collected in excess of 3½ cents per 100 pounds for two carloads of crushed rock moved November 28, 1922, from Fair Oaks to Bradford-----	Mar. 31, 1925
14721	3879	C. A. Kirkpatrick-----	First supplemental order revoking and annulling certificate granted in Decision No. 5532—auto stage line-----	Mar. 31, 1925
14722	10922	The Western Pacific Railroad Company-----	Supplemental order amending and modifying Decision No. 14706—spur track, City of Oakland-----	Mar. 31, 1925
14734	10784	Ontario Investment Company and J. W. Rogers-----	Former to transfer to latter water system at West Cucamonga, San Bernardino County-----	April 4, 1925
14745	10005	Pinedale Water Company-----	Second supplemental order amending Decision No. 13721—stock-----	April 4, 1925
14746	10341	Sacramento Gas Company-----	First supplemental order amending Decision No. 13969—bonds-----	April 4, 1925
14747	10412	Santa Monica Bay Telephone Company-----	Fourth supplemental order modifying Decision No. 14258—bonds-----	April 4, 1925
14752	8379	City of Venice-----	Order revoking prior order and dismissing application—grade crossing-----	April 4, 1925
14753	10702	Southern Pacific Company-----	Order revoking prior order and dismissing application—grade crossing-----	April 4, 1925
14754	C1487	City of Oakland vs. Southern Pacific Company-----	Order denying rehearing-----	April 4, 1925
14757	C1899	City of Palo Alto et al. vs. Southern Pacific Company-----	First supplemental opinion and order affirming Decision No. 12173 re human flagman for protection of Embarcadero Road crossing-----	April 7, 1925
14761	C1698	Railroad Commission, Investigation of-----	The Pacific Telephone and Telegraph Company, Southern California Telephone Company, United States Long Distance Telephone and Telegraph Company—extension of time to comply with Chapters 499-600 (Overhead line construction)-----	April 7, 1925
14772	10943	East Bay Water Company-----	Authorizing sale of certain real property-----	April 10, 1925
14773	8541	E. C. Coats-----	Supplemental order revoking and annulling certificate to operate auto freight service—Marysville, Yuba County, and Downieville, Sierra County-----	April 10, 1925
14774	10000	Turner Lillie-----	Revoking and annulling Decision No. 14040, and granting certificate to operate auto stage service—Angels Camp and Dorrington and intermediate points-----	April 10, 1925
14780	8986	A. S. Stafford-----	Supplemental order revoking and annulling certificate granted in Decision No. 13580—stage service, San Rafael and Lagunitas-----	April 10, 1925
14783	3808	San Diego Electric Railway Company, Commission's investigation into rates, etc-----	Third supplemental order amending Decision No. 6836-----	April 13, 1925
	3809	The Point Loma Railroad Company, Commission's investigation into rates, etc., of-----		
	5008	Point Loma Railroad Company, service to discontinue-----		
	5009	The San Diego Electric Railway Company, service, to discontinue-----		
14784	C2057	Sacramento Navigation Company vs. N. Fay and Son-----	Order denying rehearing—Decision No. 14534-----	April 13, 1925
14785	C2043	Rodeo-Vallejo Ferry Company, Commission's investigation into rates, etc., of-----	Order denying rehearing-----	April 14, 1925

14786	C2039	Golden Gate Ferry Company, Commission's investigation into rates, etc., of	Order denying rehearing.	April 14, 1925
14806	11002	Pacific Electric Railway Company	Authorized to abandon spur track near intersection of La Brea Avenue and Santa Monica Boulevard, Los Angeles County.	April 15, 1925
14807	C2038	Angeles Snowolene Refining Company et al. vs. The Atchison, Topeka and Santa Fe Railway Company.	Supplemental order amending Decision No. 14629.	April 15, 1925
14819	10984	L. W. Gregg and Minnie Gregg.	Authorized to transfer to Board of Public Service Commissioners of City of Los Angeles, for sum of \$49,980, water system located in Municipal Improvement District No. 27, Los Angeles County.	April 20, 1925
14820	C1698	Railroad Commission, Investigation of	Extension of time to comply with statutes governing overhead line construction—	April 20, 1925
14821	C1698	Railroad Commission, Investigation of	Colusa County Telephone Company.	April 20, 1925
14830	C1698	Railroad Commission, Investigation of	Extension of time to comply with Chapters 499-500 on overhead line construction—	April 20, 1925
14831	C1698	Railroad Commission, Investigation of	Roseville Telephone Company.	April 20, 1925
14842	10847	Jacob Bean Water System.	Extension of time to comply with Chapters 499-500, overhead line construction—	April 20, 1925
14843	10867	Southern Pacific Company	Reedley Telephone Company.	April 20, 1925
14846	11020	Pacific Electric Railway Company	Extension of time to comply with requirements of Chapters 499-500, Kern Mutual Telephone Company.	April 20, 1925
14847	9807	West Coast Transit Company	Authorizing abandonment of water service to Lots One to Ten, inclusive, Los Angeles County.	April 25, 1925
14848	10956	Key System Transit Company	First supplemental order rescinding Decision No. 14672—grade crossing in vicinity of Mountain View, Santa Clara County.	April 25, 1925
14861	10998	East Bay Water Company	Authorized to add and remove spur track at Gordon Street and Santa Monica Boulevard in City of Los Angeles.	April 25, 1925
14867	10466	Laguna Beach Short Line Automobile Stage Company.	First supplemental order modifying Decision No. 13435, so as to permit issue of stock to A. Dumanian in payment of properties.	April 25, 1925
14868	10769	Hugh Goodfellow, Warren Olney and W. I. Brobeck, trustees, and Key System Transit Company	Supplemental order approving stipulation provided in Decision No. 14810.	April 25, 1925
14873	10856	Southern Pacific Company	Granting to Pacific Gas and Electric Company certain rights of way and easements over lands of applicant.	April 29, 1925
14874	C1698	Railroad Commission, Investigation of	Supplemental order amending Decision No. 14793—certificate.	April 29, 1925
14875	C1698	Railroad Commission, Investigation of	Supplemental order modifying Decision No. 14617—sale of certain property to Southern Pacific Company.	April 29, 1925
14878	11008	Los Angeles and Salt Lake Railroad Company and Pacific Electric Railway Company	Authorized to close agency station at Alma, Santa Cruz County, from November 1 to April 30, inclusive, of each year.	April 30, 1925
14885	10672	Indian Valley Electric Light and Power Company (D. J. McIntyre).	Corona Home Telephone and Telegraph Company—extension of time to comply with requirements of Chapters 499-500.	April 30, 1925
14887	10930	L. N. Wood and Willard F. Smith.	Pomona Valley Telephone and Telegraph Union—extension of time to comply with requirements of Chapters 499-500.	April 30, 1925
14898	9655	Arrowhead Utility Company and Harry Lee Martin.	Authorizing abandonment and removal of passenger waiting shelter at intersection of Riverside Avenue and Foothill Boulevard, Rialto.	May 1, 1925
	9656	Arrowhead Utility Company	Authorizing issue of \$7,000 of notes to pay indebtedness.	May 7, 1925
	9657	Arrowhead Utility Company	Former authorized to sell and transfer to latter the Capay Valley Telephone System; latter authorized to execute mortgage.	May 7, 1925
			Third supplemental order amending Decision No. 13207, so as to issue stock.	May 7, 1925

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceeding	Date
14899	10705	Frank Owens	Supplemental order amending Decision No. 14825—to operate auto freight truck service—Colton and Pomona	May 7, 1925
14905	10887	Belvedere Water Corporation	Authorized to exercise rights and privileges under ordinances Nos. 286, 300, 773, 854 and 1144 (new series) of County of Los Angeles	May 12, 1925
14913	8594	Pickwick Stages, Inc.	Supplemental order authorizing abandonment of auto stage service between Pasadena and San Diego	May 12, 1925
14914	9725	Auto Transit Company	Supplemental order revoking and annulling certificate granted in Decision No. 14476—San Francisco and Santa Cruz	May 12, 1925
14920	10930	L. N. Wood and Willard F. Smith	Approving execution of mortgage by latter for purchase from former of Capay Valley Telephone System (supplemental order)	May 14, 1925
14929	11038	Los Angeles and Salt Lake Railroad Company—Lee and D. R. Jaqua, and Pickwick Stages, Northern Division	Authorized to abandon and remove shelter station at Cudahy, Los Angeles County	May 14, 1925
14931	9796			
14933	C1698	Railroad Commission, Investigation of	Approving transfer by former to latter of auto stage service—San Luis Obispo and Santa Maria and intermediate points	May 14, 1925
14934	C1698	Railroad Commission, Investigation of	Coachella Valley Home Telephone and Telegraph Company—extension of time to comply with requirements of Chapters 499-600	May 14, 1925
14935	C1698	Railroad Commission, Investigation of	The Home Telephone Company of Edwanda—extension of time to comply with requirements of Chapters 499-600	May 14, 1925
14937	9744	George Mari	First supplemental order revoking and annulling certificate granted in Decision No. 13581—auto stage service, Wendel and Hackstaff	May 14, 1925
14942	11086	The Atchison, Topeka and Santa Fe Railway Company	Granting authority to relocate spur track at Forty-sixth Avenue in City of Vernon, Los Angeles County	May 15, 1925
14945	10626	Cousins Launch and Lighter Company	Granting certificate to operate vessels between Eureka and other points on Humboldt Bay and tributaries thereto	May 18, 1925
14946	10856	Southern Pacific Company	Supplemental order correcting Decision No. 14873 to read Santa Clara County instead of Santa Cruz County	May 18, 1925
14953	11056	A. B. Perkins	Authorizing mortgage of Newhall Water System and issue of \$20,000 promissory note	May 21, 1925
14955	11096	Central Warehouse and Storage Company	Authorized to issue and sell \$700 of common capital stock	May 21, 1925
14960	11118	Pacific Electric Railway Company	Permitted to abandon and remove southerly track of double track line of railroad on Philadelphia Street in City of Whittier	May 21, 1925
14961	11123	San Diego and Arizona Railway Company	Authorizing abandonment and removal of certain trackage in City of San Diego	May 21, 1925
14962	5091	G. R. Carpenter	Supplemental order revoking and annulling certificate granted in Decision No. 6920—auto stage service, Monterey and Salinas	May 21, 1925
14963	7819	E. J. Ellison	Second supplemental order revoking and annulling certificate granted in Decisions Nos. 10546 and 10640—auto stage service between Burlingame and Pacific City	May 21, 1925
14964	10000	Turner Lillie	Second supplemental order amending Decision No. 14774—to read "via Bellota and via Farrington" instead of via Clements	May 21, 1925
14965	7498	Central Counties Gas Company	Third supplemental order modifying Decision No. 10100—bond issue	May 21, 1925
14966	9721	Merced County, Board of Supervisors of	Order revoking prior order and dismissing application—grade crossing	May 21, 1925
14967	C2078	Railroad Commission, Investigation of	Order denying rehearing of investigation into rates, service, etc., of Sidney Smith operating Home Gardens Water Company	May 21, 1925

14989	San Jose Water Works.	Authorizing sale of certain property to C. J. Roberts.	May 22, 1925
14991	H. Redmond.	Authorizing construction and operation of water system to serve Tract No. 6980, Los Angeles County.	May 28, 1925
14994	Groveland Water Users Association vs. Yosemite Power Company.	Opinion and order on rehearing affirming Decision No. 12414—defendant not public utility subject to jurisdiction of Commission.	
14996	Petaluma and Santa Rosa Railroad Company.	First supplemental order shifting location of spur track granted in Decision No. 14206.	May 28, 1925
14999	Lake County Water and Power Company.	First supplemental order modifying Decision No. 14903—stock.	May 28, 1925
15009	Pacific Electric Railway Company.	First supplemental order modifying Decision No. 14903—stock.	May 28, 1925
15011	West Coast Transit Company.	Second supplemental order modifying Decision No. 13435, so as to permit issue of stock.	June 3, 1925
15021	Spring Valley Water Company.	Granting to Dumbarton Bridge Company rights of way over certain lands as approach to proposed bridge over San Mateo County.	June 3, 1925
15022	Spring Valley Water Company.	Authorized to exchange certain lands with Julia J. Morrison so as to straighten out certain portion of "Skyline Boulevard".	June 6, 1925
15026	Westland Distribution and Storage Warehouse Company.	Authorized to issue and sell \$10,000 of common capital stock.	June 6, 1925
15030	Associated Oil Company.	Approving franchise granted by Board of Trustees of Town of Martinez for construction of wharf in Contra Costa County.	June 6, 1925
15033	Hugh Goodfellow, Warren Olney and W. I. Brock, as trustees, and Key System Transit Company et al.		
15034	Railroad Commission, Investigation of.	Sixth supplemental order modifying Decision No. 12931 so as to permit deduction of \$385,263.30 from amount allowed for reorganization expenses.	June 6, 1925
15035	Railroad Commission, Investigation of.	Seventh supplemental order modifying Decision No. 12931 so as to permit deduction of \$385,263.30 from amount allowed for reorganization expenses.	June 6, 1925
15036	Railroad Commission, Investigation of.	U. S. Marine Company—extension of time to comply with requirements of Chapters 499-500 (Overhead line construction).	June 6, 1925
15037	Railroad Commission, Investigation of.	Needles Gas and Electric Company—extension of time to comply with requirements of Chapters 499-500.	June 6, 1925
15038	Antelope Valley Telephone Company.	Colorado River Telephone Company—extension of time to comply with requirements of Chapters 499-500.	June 6, 1925
15044	George D. Grant (The Del Norte Development Company).	Extension of time to comply with requirements of Chapters 499-500.	June 6, 1925
15045	Lake County Automobile Transportation Company.	Approving franchise for operation of wharf and collection of tolls thereon for period of 20 years at Crescent City, Del Norte County.	June 13, 1925
15046	D. W. Renfro.	First supplemental order authorizing discontinuance of service between Hopland and Seliger and Adams Springs.	June 13, 1925
15062	R. H. Vehmeyer (Vehmeyer Transportation Company).	Supplemental order revoking and annulling certificate to operate auto stage service for school children only—Folsom and San Juan Union High School.	June 13, 1925
15070	Pacific Electric Railway Company.	Authorized to operate vessels on Sacramento and San Joaquin Rivers and tributaries thereof and the Encinal Terminals located in the City of Alameda on the Oakland estuary.	June 15, 1925
15071	Nevada-California-Oregon Railway.	Grants authority to abandon and remove passenger waiting station at Mar Vista, near Grandview Boulevard.	June 15, 1925
15076	Pacific Gas and Electric Company and Bethlehem Shipbuilding Corporation.	First supplemental order revoking and annulling certificate to operate auto stage line—Alturas and Fort Bidwell via Cedarville and Lake City.	June 15, 1925
15078	Peerless Stages, Incorporated.	Approving agreement for sale of electric energy.	June 20, 1925
		Revoking authority of Key System Transit Company to install passing track on San Jose Avenue in the City of Alameda.	June 20, 1925

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceeding	Date
15079	9344	Venice Consumers Water Company	Second supplemental order authorizing use of proceeds from sale of stock.	June 20, 1925
15080	C1698	Postal Telegraph-Cable Company	Extension of time granted in which to comply with statutes governing overhead electric line construction.	June 20, 1925
15081	C1698	The Pacific Telephone and Telegraph Company	Extension of time until October 1, 1926, to comply with Chapters 499-500.	June 20, 1925
15082	C1698	Consolidated Utilities Company	Extension of time granted until January 1, 1926, to comply with Chapters 499-500.	June 20, 1925
15083	C1698	Interstate Telegraph Company	Extension of time granted until November 1, 1925, to comply with statutes governing overhead electric line construction.	June 20, 1925
15084	C1698	Associated Telephone Company	Extension of time granted until October 15, 1925, to comply with statutes governing overhead electric line construction.	June 20, 1925
15087	11009	Southern California Edison Company	Authorizing construction of additional high tension electric transmission line from Big Creek plants in Fresno County, through Fresno, Tulare, Kern and Los Angeles counties.	June 20, 1925
15094	11228	Pacific Electric Railway Company	Authorized to abandon spur track connecting with Lagoon Line in City of Venice.	June 22, 1925
15095	11250	Southern Pacific Company	Authorizing abandonment of freight platform in vicinity of Washington Square in City of Marysville.	June 24, 1925
15096	11251	Southern Pacific Company	Authorizing abandonment of non-agency station at Tujunga, Los Angeles County.	June 24, 1925
15108	11200	The Western Pacific Railroad Company and Sacramento Northern Railroad	Granting authority to the former to abandon freight station at Marysville, and authorizing joint use of certain trackage.	June 25, 1925
15109	11297	The Pacific Telephone and Telegraph Company	Authorizing to purchase 169 shares of common stock of Associated Telephone Company.	June 25, 1925
15110	11203	Bay Cities Transit Company	Authorizing issuance of note for \$12,000, and execution of mortgage to secure same.	June 25, 1925
15111	8794	Pickwick Stages, Inc.	Revoking certificate formerly granted to McGarvin and Sparks for auto stage line between Escondido and San Diego, and which was transferred to Pickwick Stages, Inc.	June 25, 1925
15112	8769	Pickwick Stages, Inc.	Authorizing abandonment of operation of its San Diego-Descanso and San Diego-Julian lines on portion along shores of Lake Cuyamaca between Descanso and Julian.	June 25, 1925
15113	5642	Edmond Wilkinson	Supplemental order revoking and annulling certificate to operate auto passenger freight service—Bridgeville and Alder Point.	June 25, 1925
15114	6787	Walter Kielhofer	Supplemental order revoking and annulling certificate to operate auto truck service between dairy ranches in vicinity of Lancaster and creameries in Los Angeles.	June 25, 1925
15115	8348	John Frederic Holland	Supplemental order revoking and annulling certificate to operate freight truck service Clearwater and Long Beach.	June 25, 1925
15116	C1937	George P. Wicker vs. Laurel Canyon Land Company	Second supplemental order on rehearing, modifying previous order relative to money advanced by consumers for certain improvements in the water system.	June 27, 1925
15117	C1938	C. J. Milliron vs. Laurel Canyon Land Company	Order revoking prior order and dismissing application to construct grade crossing at J Street.	June 27, 1925
15118	9658	City of Parlier	Authorized to sell to Kitrick and Hall, a corporation, for sum of \$52,000 certain property at Durham, Esquon, Shippee, and also 13,000 shares of capital stock of Northern Warehouse Company.	July 3, 1925
15128	11243	Sacramento Northern Railroad	Supplemental order modifying previous order so as to permit use of depreciation fund to finance cost of extensions.	July 3, 1925
15134	5637	Union Traction Company	Second supplemental order rescinding previous order authorizing issuance of \$2,000,000 of authorized issue of \$4,000,000.	July 3, 1925
15135	8836	Great Western Power Company of California		July 3, 1925

15136	C1698	Bell Electric Company-----	Extension of time granted until September 1, 1925, in which to comply with statutes governing overhead electric line construction.-----	July 3, 1925
15137	C1698	Southwestern Home Telephone Company-----	Extension of time granted until January 1, 1926, in which to comply with statutes governing overhead electric line construction.-----	July 3, 1925
15141	11089	Atanasio Conte-----	Authorizing discontinuance of water service to Lankershim District, City of Los Angeles	July 3, 1925
15143	3708	City of Palo Alto-----	Seventh supplemental order granting extension of time until June 30, 1926, to maintain temporary grade crossing at intersection of Palo Alto Avenue and Alma Street.	July 3, 1925
15148	C1698	Alturas Electric Power Company-----	Extension of time granted until November 1, 1925, to comply with statutes governing overhead electric line construction.-----	July 7, 1925
15149	C1698	Empire Mill and Electric Company-----	Extension of time granted until October 1, 1925, to comply with statutes governing overhead electric line construction.-----	July 7, 1925
15150	C1698	Lassen Electric Company-----	Extension of time granted until November 1, 1925, to comply with statutes governing overhead electric line construction.-----	July 7, 1925
15153	11140	Southern Pacific Company-----	Authorized to discontinue agency station at West Applegate, Placer County.	July 7, 1925
15154	11041	R. D. Brown and M. C. Langstaff-----	Former to sell and transfer his interest in Forest Hill Telephone Exchange, to the latter for the sum of \$350.00.	July 7, 1925
15155	11198	Southern Pacific Company-----	Authorized to abandon non-agency station at Serena, Santa Barbara County.	July 7, 1925
15196	11199	Southern Pacific Company-----	Authorized to abandon non-agency station at Samuels in Fresno County.	July 7, 1925
15157	11328	Harbor Terminal Railroad-----	Granting permission to issue and sell \$8,000 of capital stock to finance cost of certain expenditures.	July 7, 1925
15164	10697	Laguna Beach Telephone Company-----	First supplemental order modifying Decision No. 14044, to use proceeds from issue of notes.	July 7, 1925
15176	5550	Midland Counties Public Service Corporation-----	Seventh supplemental order amending Decision No. 7708.	July 9, 1925
15182	C2097	Railroad Commission, Investigation of-----	Second supplemental order extending order of suspension and investigation into rates and charges on radio receiving sets and talking machines and radio sets combined.	July 13, 1925
15183	10110	City of South San Francisco-----	Order denying application for recharging—grade crossing at Orange Avenue and Third Street.	July 14, 1925
15185	11190	A. B. Perkins-----	Authorized to sell to Joseph D. and Agnes K. O'Brien a one-half interest in Newhall Water System, Los Angeles County.	July 14, 1925
15186	11016	Buehheim Water Company-----	Authorized to construct and operate water system in vicinity of Capistrano Beach, Orange County. (Preliminary).	July 14, 1925
15190	C1698	Railroad Commission, Investigation of-----	Extension of time to comply with requirements of Chapters 499-500, Indian Valley Light and Power Company.	July 16, 1925
15191	C1698	Railroad Commission, Investigation of-----	Extension of time to comply with requirements of Chapters 499-500, Surprise Valley Electric Light and Power Company.	July 16, 1925
15196	11425	Grangers Business Association-----	Order approving renewal of wharf franchise granted by Board of Supervisors of Contra Costa County.	July 16, 1925
15203	11456	Pacific Electric Railway Company-----	Authorizing abandonment of freight station at non-agency station of Michigan Avenue on Santa Ana Line of Southern Division.	July 18, 1925
15205	10267	San Francisco-Sacramento Railroad Company-----	Order revoking prior order and dismissing application—spur track at Eastport, Contra Costa County.	July 22, 1925
15216	11179	San Joaquin Compress and Warehouse Company-----	First supplemental order approving form of mortgage covering issue of notes.	July 22, 1925
15217	11425	Grangers Business Association-----	First supplemental order approving stipulation in connection with wharf franchise in Contra Costa County.	July 27, 1925
15221	11116	Inglewood Water Company and City of Inglewood-----	Authorizing former to lease to latter its plant serving territory recently annexed by city, with right and option to purchase same.	July 27, 1925
15226	11263	Puente City Water Company and La Puente Valley County Water District-----	Authorizing former to transfer to latter water system serving vicinity of Puente, Los Angeles County.	July 30, 1925
15230	10708	Western States Gas and Electric Company-----	Supplemental order authorizing use of proceeds from sale of stock.	July 30, 1925

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceeding	Date
15231	11090	Pacific Gas and Electric Company and J. D. and A. B. Spreckels Securities Company	Approving agreement for exchange of certain real property in city of San Francisco.	July 31, 1925
15232	11291	Spring Valley Water Company and Carrie E. and Henry S. Bridge	Authorizing exchange of small parcels of land in San Mateo County to straighten out Skyline Boulevard.	July 31, 1925
15233	11294	Spring Valley Water Company	Granting right of way to Niles Sanitary District for construction of sewer between Niles and Centerville, Alameda County.	July 31, 1925
15239	11172	San Francisco, Napa and Calistoga Railway	Supplemental order amending Decision No. 15174, grade crossing in City of Vallejo.	July 31, 1925
15240	9679	City of Elsinore	Order revoking prior order and dismissing application—grade crossings.	July 31, 1925
15246	10119	Los Angeles and Salt Lake Railroad Company	Order revoking portion of prior order in Decision No. 13741—spur track.	July 31, 1925
15251	10483	Auto Transit Company	First supplemental order extending time to file tariffs and time schedules (Decision No. 15201).	Aug. 3, 1925
15253	10393	San Diego Electric Railway Company and San Diego Consolidated Gas and Electric Company	Approving contract for sale of electric power to the former by the latter.	Aug. 3, 1925
15258	C2035	Railroad Commission, Investigation of	Extension of time to comply with requirements of Chapters 499-600 Bear Valley Utilities.	Aug. 3, 1925
15259	C1698	Railroad Commission, Investigation of	Extension of time to comply with requirements of Chapters 499-600, Ontario Power Company.	Aug. 4, 1925
15260	C1698	Railroad Commission, Investigation of	Extension of time to comply with requirements of Chapters 499-600, City of Pasadena.	Aug. 4, 1925
15262	11076	County of Los Angeles, Board of Supervisors of	Authorizing construction of pedestrian tunnel under tracks of Pacific Electric Railway Company.	Aug. 4, 1925
15267	C2149	B. R. Fraser, Commission's investigation into operations of	Revoking and annulling certificate for auto bus line in City and County of Los Angeles—Decision No. 14465.	Aug. 6, 1925
15273	11476	Spring Valley Water Company	Authorized to sell and transfer to City and County of San Francisco certain piece of land in San Mateo County.	Aug. 7, 1925
15274	8088	W. R. DeWolf	First supplemental order dismissing application for rehearing and revoking and annulling certificate to operate auto stage service between Diamond Springs and Sacramento and Placerville.	Aug. 10, 1925
15275	11429	County of Santa Cruz	First supplemental order authorizing relocation of two temporary crossings over Davenport Branch of Southern Pacific Company south of Liddell Flag Station.	Aug. 10, 1925
15281	9432	Balies G. Walker	First supplemental order authorizing suspension of operation of auto stage line between west end of Yuma Bridge, California, and point on California-Mexican border known as Andrade.	Aug. 12, 1925
15282	10386	Northwestern Pacific Railroad Company	First supplemental order amending Decision No. 14131—re installation of automatic flagman.	Aug. 12, 1925
15286	5097	San Francisco-Richmond Ferry Company	Eighth supplemental order authorizing withdrawal from bank of \$12.00 obtained from sale of stock—Decision No. 8144.	Aug. 12, 1925
15297	9318	California Highway Commission	Order revoking prior order and dismissing application—grade crossing.	Aug. 13, 1925
15311	11537	Bigelow Telephone Company	Authorizing certain rates, rules and regulations.	Aug. 13, 1925
15312	2345	San Diego and South Eastern Railway Company	Second supplemental order modifying Decision No. 3458—grade crossing.	Aug. 18, 1925
15316	10806	City of Berkeley	Order removing from calendar and dismissing application—grade crossing at Grayson Street.	Aug. 18, 1925

15317	C2063	Albers Brothers Milling Company vs. Southern Pacific Company.....	Denying defendant's petition for rehearing and oral argument.....	Aug. 18, 1925
15318	11131	Southern Pacific Company.....	Order removing from calendar, revoking prior order and dismissing application—grade crossing in City of Oakland.....	Aug. 18, 1925
15319	C2060	Lassen Lumber and Box Company vs. Southern Pacific Company.....	Order denying rehearing.....	Aug. 18, 1925
	C2077	Red River Lumber Company vs. Southern Pacific Company.....		
15321	C2015	Pickwick Stages, Northern Division, vs. W. W. Wilcox, Murray Bayless, etc.....	Opinion and order on rehearing, amending Decision No. 14481.....	Aug. 18, 1925
15325	10585	Wheeler's Hot Springs Stage Line.....	First supplemental order approving stipulation—wharf franchise at Martinez.....	Aug. 20, 1925
15333	11163	Associated Oil Company.....	First supplemental order authorizing discontinuance of stage service between Visalia and Lemon Cove—Decision No. 14164.....	Aug. 25, 1925
15334	10460	Al Askin Stage Company.....	Order revoking prior order and dismissing application—grade crossing in City of Los Angeles near Walhoo Station.....	Aug. 25, 1925
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